

In Re: Musammat Durga Bai

In Re: Musammat Durga Bai

SooperKanoon Citation : sooperkanoon.com/481021

Court : Allahabad

Decided On : Dec-01-1925

Reported in : 92Ind.Cas.482

Judge : Walsh and ;Kanhaiya Lal, JJ.

Appellant : In Re: Musammat Durga Bai

Judgement :

1. This is an application in revision against an order made by the District Judge of Agra on the 30th of May last with regard to the disposition of the funds of certain minors by their guardian. The two children are aged respectively 13 and 14. The girl is 13, and the learned Judge, by the order complained of, has allowed Rs. 100 for the marriage of the girl, and Rs. 50 for the education of the boy. The grounds for this application are that the sum of Rs. 100 is not adequate, and that having regard to the status of the ward and the customary expenditure upon marriage ceremonies in a Hindu family, at least Rs. 500 should have been awarded. It seems to us that prima facie there is something to be said for this contention. Rs. 100 is certainly small. On the other hand it sometimes happens that people, when left to their own devices, spend proportionately a larger sum than is prudent upon marriage ceremonies and we appreciate the fact that in all probability the Judge was desirous of preventing extravagance, and of protecting the interests of the minors during the remaining part of their tutelage, having regard to the total funds available for their benefit. These are matters strictly within the discretion of the District Judge, the Act having rightly vested jurisdiction in the District Judge, who is

the principal Civil Court in the locality to decide what is best in such matters, having regard to the interests of the minors in the future as well as in the present. The learned Judge, in any event, is in a better position than the High Court to know what proportion of the funds available ought to be allowed to be expended upon an important event like a marriage. We have said all this in order to indicate that, while we feel that there is something to be said for the applicant, on the other hand we are bound to recognise that we are not really in a position to review an order of the Judge of this kind, and that the law has left it entirely in his discretion. It is admitted that the order, being one apparently under Section 31, Sub-section 3, Clause (d) is not an appealable order. We are asked to interfere under Section 48 which is equivalent to Section 115, C.P.C. We are of opinion that revision does not lie in a matter which is purely a question of amount, and a question of discretion in the Court below, and we do not think that the case cited from the Lahore Court, in which a Single Judge expressed an opinion, which was only a dictum, that a revision might lie, is an adequate authority to justify interference in revision. On the other hand we appreciate the motives which have led to this application, and we think that it is possible that the learned Judge after considering our observations might come to the conclusion on re-consideration that the amount might well be increased without injury to the future prospects of the minors.

2. We, therefore, direct that a copy of this order be sent to the learned Judge with an intimation that we think that the better course would be for him to give notice to the parties and re-open the matter with a view to considering whether the sum of Rs. 100 for the marriage expenses is insufficient. In form this application is rejected.