

Raja and anr. Vs. Subbaraya

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Court : Chennai

Decided On : Nov-14-1883

Reported in : (1883)ILR7Mad253

Judge : Charles A. Turner, Kt., C.J. and ;Muttusami Ayyar, J.

Appellant : Raja and anr.

Respondent : Subbaraya

Judgement :

Charles A. Turner, Kt., C.J. and Muttusami Ayyar, J.

1. There is no valid ground for the contention that if the adoption be proved the plaintiff should take but a fifth share. By representation the adopted son takes the share which his adoptive father would be entitled to take on partition. With all deference to the authority of the High Court of Calcutta in Raghubanund Doss v. Sadhu Churn Doss I.L.R. 4 Cal. 425 we doubt whether the passage in Dattaka Chandrika, Section 5, paragraph 25, even with the addition suggested, has been correctly interpreted. If there be such a special rule, as is suggested, it is not applicable at all events to Sudras, among whom the adopted son is declared entitled to take an equal share with a legitimate son who is born subsequently to the adoption. We agree with the Judge that the plaintiff would take his father's share, a moiety, if he were really adopted.

2. Appeal dismissed.

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