

Bagirathi Ammal Vs. Bagirathi Ammal, Deceased and ors.

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SooperKanoon Citation : sooperkanoon.com/809710

Court : Chennai

Decided On : Nov-05-1918

Reported in : 50Ind.Cas.597

Judge : Seshagiri Aiyar and ;Phillips, JJ.

Appellant : Bagirathi Ammal

Respondent : Bagirathi Ammal, Deceased and ors.

Judgement :

1. The dispute relates to a gift of a small portion of the family property to one of the members at the partition. The family originally consisted of a father, three sons and the children of two of the sons, one of the sons died issueless. His funeral ceremonies were performed by the husband of the plaintiff, who was a son of one of the sons, Ramakrishna Aiyar. The deed provided that a portion of the family property should be given to this boy, as he performed the funeral ceremonies of his deceased uncle and as he was requested to perform the annual sradhs. Very soon after, the donee died and the suit is by the widow to recover the property given to her husband. The defence is that it is not competent to members of a joint Hindu family to give away family properties for such a purpose. The District Munsif upheld the gift. The learned District Judge has reversed that judgment.

2. In our opinion he is wrong. The texts of Mitakshara quoted in Kameswara Sastri v Veeracharlu 8 Ind. Cas. 195 : 34 M.L.J. 855 : 9 M.L.T. 26 : (1910) M.W.N. 649 to

which our attention was drawn by Mr. S. Venkatachariar, show that in a joint Hindu family gifts of property can be made for purposes of a similar nature. Mr. Venkatrama Sastri admitted that the performance of the *shradh* by some one or other of the members of the family was incumbent on them, and that failure to do it would have brought about social ostracism. In this state of affairs, the members decided that one of them should be selected to perform this duty and that he should be reimbursed the expenses by the allotment of certain lands. We see no reason for holding that such an arrangement is not binding on the Joint family. There was ample consideration, even the transaction be looked at from a purely business point of view. See *Natesa Aiyar v. Bathai Ammal* 4 Ind. Cas. 1140 : 19 M.L.J. 62 : 5 M.L.T. 140 The learned Vakil for the respondents contended that under Hindu Law, no member of a family performing a *shradh* can expect any remuneration for doing it. But that is not the point. It is not a *quid pro quo* for performing the *shradh* that the gift was made, but to enable the recipient to defray the expenses of the recurring monthly and annual ceremonies. We think such an arrangement is valid under the Hindu Law as well as on general principles of jurisprudence. We must, therefore, reverse the decree of the District Judge and restore that of the District Munsif with costs here and below.