

Padala Krishna Rao Vs. Padala Kumarajamma

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Court : Chennai

Decided On : Apr-23-1912

Reported in : 15Ind.Cas.340

Judge : Sundara Aiyar and ;Ayling, JJ.

Appellant : Padala Krishna Rao

Respondent : Padala Kumarajamma

Judgement :

1. The question raised for decision in this second appeal is, whether the plaintiff, who is the illegitimate son of one Ragavulu, born of a woman who had been previously married to another person when young and had been subsequently been in the keeping of Ragavulu after her husband's death, is entitled to inherit Ragavulu's property. The case of Annayyan v. Chinnan 33 M.K 366 : 5 Ind. Cas. 84 : 7 M.L.T. 140 : 20 M.L.J. 355 is a direct authority against the contention of the appellant that he is entitled to inherit. It was laid down in that case that, in order that an illegitimate son may be entitled to inherit to his father, he must have been born of a woman who was never married to any one before she came under the keeping of the person whose son the claimant is. It is contended that Colebrook's Translation of the Text of Dayabhaga that the illegitimate son must be the son of an unmarried woman is not quite accurate, that the Sanskrit expression really means the son of a woman not married to the person whose son the claimant is and not married at all to any one', and a translation of Medathithi's Commentary on

the Text of Manu laying down the rule and Gopal Chandra Sircar's Translation of the Dayabhaga Text are cited to us, the translation being, son of a woman not married to the person.' No text-writer or commentator has been cited who says definitely that the fact of the previous marriage of a woman to some one else is no bar to her illegitimate son succeeding. One would have expected such a statement to be made at least by the later commentators if it was in accordance with the view entertained by them. We agree with the opinion expressed in Annayyan v. Chinnan 33 M.K 366 : 5 Ind. Cas. 84 : 7 M.L.T. 140 : 20 M.L.J. 355 that in the absence of such a pronouncement by any authoritative Hindu writer, it is not desirable to extend the right of inheritance of illegitimate children born of a woman who had been already married to a person.

2. We dismiss the second appeal with costs.

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