

Dalim Bibi Vs. Koonari Bibi

Dalim Bibi Vs. Koonari Bibi

SooperKanoon Citation : sooperkanoon.com/868480

Court : Kolkata

Decided On : Aug-19-1884

Reported in : (1885)ILR11Cal14

Judge : Macpherson and ;Beverley, JJ.

Appellant : Dalim Bibi

Respondent : Koonari Bibi

Judgement :

Macpherson, J.

1. One Jonab Ali Lasker died leaving a widow (defendant 1), a maternal uncle (defendant 2), and a paternal aunt (plaintiff); and the sole question raised in this appeal is, whether under Mahomedan law the widow takes the whole-estate of the deceased to the exclusion of the maternal uncle and the paternal aunt, who belong to the class of 'distant kindred.'

2. It is contended on the authority of the cases reported in 1 Select Reports, 346 and I.L.R. 3 Cal. 702, that the widow is entitled to the 'return,' and it is ingeniously argued that, as those who share in the 'return' take in preference to 'distant kindred,' so the widow's claim must be preferred to that of the 'distant kindred.'

3. But we think that neither the cases cited nor the authorities go to this extent. What the cases decided was, that in the absence of other heirs (and 'distant kindred' are heirs) the widow is entitled to the 'return' as against the bat-ul-mal, or public treasury. And this is in accordance with authority.

4. Originally, it would seem, the widow was not entitled to share in the 'return' at all, and an exception was only made in her favour as against the public treasury. But she has no claim to the ' return ' as against any of the heirs. The appeal is dismissed with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com