

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Munna Lal Chowdhri v. Thakur Gajraj Singh, from the Court of the Judicial Commissioner, Central Provinces, India; delivered June 22nd, 1889.*

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Present:

LORD WATSON.

LORD HOBHOUSE.

SIR BARNES PEACOCK.

[*Delivered by Lord Hobhouse.*]

THIS appeal is raised on three grounds. The first is this: that the Plaintiffs, who sue as the heirs of Ratan Singh, are not his heirs, or at least that the evidence which proved that they are his heirs ought not to have been admitted. Their Lordships consider that no objection has been shown to the admissibility of the evidence, and the matter therefore is concluded by the finding of the Commissioner, from whom no appeal upon facts lay to the Judicial Commissioner, whose decree is now under appeal.

The second ground is that legal necessity for the sale to the Appellant ought to have been inferred by the judge, the sale being by a person purporting to have a widow's estate. Their Lordships are of opinion that that also is concluded by the judgment of the Commissioner. They cannot hold as a matter of law that the things on which it is alleged that the money raised by the sale was spent constituted a legal necessity for the sale; and indeed it appears to them that the judgments of the Court below have gone upon the principle of examining the items which are alleged to have been spent on matters of necessity, and finding they have no connection

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with the sale. That therefore is a matter of fact which is concluded by the judgment of the Commissioner.

The third point is raised for the first time in these proceedings on the third appeal, and the fourth hearing of the cause. All the parties have proceeded hitherto on the view that the widow of Ratan Singh, who effected the sale, had the widow's estate only; and therefore that, although the sale was perfectly good for her lifetime, it was not good for any period beyond her life, unless legal necessity for the sale could be shown. Acting upon that view the Courts below have given the Plaintiffs a declaratory decree that they are the reversioners and heirs apparent expectant on the widow's death. But it is now said that this widow, Ganga, had something different from the widow's estate; that the effect of an order of the settlement officer in the month of July 1865 was not to give the three widows who then were living the widows' estate, but it was an order effecting a partition of the family, and giving one third in absolute proprietorship to each of the three widows, and the remaining share to the mother of the deceased Ratan Singh. There may be words in this order about which there is some ambiguity, but reading the order as a whole their Lordships cannot doubt that the settlement officer took Ratan Singh as being the proprietor of the estate, and took the estate as having passed to his heirs upon his death. Why he attributed a fourth to the mother of Ratan Singh does not appear, but no doubt she was entitled to maintenance; and it may have been that the state of things before him at that time led him to believe that it would be a proper way of dealing with the estate to give each of the four who had claims upon it the enjoyment of one fourth of the estate. That may be so; but their Lordships cannot find upon the face of this order

any intention to give to the mother and widows between them anything more than an interest in the widows' estate.

The consequence is that Ganga, having survived the rest, takes the whole of the widows' estate in the whole of the property, and the inheritance is left to devolve as it may devolve by course of law. The present heirs apparent are the Plaintiffs, and therefore they are entitled to the decree.

The result is that the Appeal must be dismissed. There will be no costs, as the Respondent has not put in an appearance.

