

*Judgement of the Lords of the Judicial Committee
of the Privy Council on the appeal of Babu
Sheo Lochun Singh v. Babu Saheb Singh, from
the High Court of Judicature at Fort William,
in Bengal; delivered February 10th, 1887.*

Present :

LORD WATSON.

LORD FITZGERALD.

LORD HOBHOUSE.

SIR BARNES PEACOCK.

SIR RICHARD COUCH.

THE suit which is the subject of this appeal was brought by the Respondent, who claimed as one of the heirs of Sheodyal, who died in 1827, to recover from the Appellant a third share of the property which had been left by Sheodyal at his death, and to which his two widows, Pranpearı and Rekaba became entitled, and also a third of the properties which had been purchased by the widows with, as he alleged, the income of the property which they inherited. Pranpearı and Rekaba in the first place held the properties jointly, and Pranpearı died in 1870, leaving Rekaba surviving her, and in possession of the whole of the estate. It appears that on the 19th October 1875 Rekaba executed a deed of Atanama, by which she professed to give to the Appellant, who was the Defendant in the suit, the whole of the property, not only that which came to the widows from Sheodyal, but the properties which had been purchased by them; and it was also alleged that the Defendant had been adopted by the widows with the permission of Sheodyal as his son.

Various issues were settled. The defence set up various matters, including the law of limitation, the adoption of the Defendant and the deed of Atanama. All the issues were found in favour of the Plaintiff, the Respondent, except that with respect to the question whether the Plaintiff was entitled to recover a share of the properties which had been purchased by the widows. The lower Court found that the widows were entitled to alienate that property, and consequently that he was not entitled to it. The High Court, when the case came before it upon appeal, upon this question said that upon the evidence before them there was not the slightest doubt that the properties in question, namely, the purchased properties, were dealt with by the widows as accretions to their husband's estate, and that they were treated in the deed of gift precisely in the same way as the admitted properties of Sheodyal were treated.

Their Lordships have been referred by Mr. Branson to the different parts of the evidence which he considered bore upon the question whether the properties were purchased by the widows out of the income of the descended property, and whether their intention was to keep those properties distinct. Certainly the evidence is not such as would show that the High Court in coming to the conclusion they did were not quite justified by it.

The authority upon this matter is the case of *Isridut Koer and another v. Mussumat Hansbati Koerin and others*, reported in the 10th Indian Appeals, page 150. At the conclusion of the judgement, their Lordships state the matter which has to be looked at in deciding whether the property acquired or purchased by the widows is to descend with the husband's estate, or is to be treated as a separate estate. They say:—

“Neither with respect to this object”—namely, to change the succession—“nor, apparently, in any other way have the widows made any distinction between the original estate and the after purchases.” Where a widow comes into possession of the property of the husband, and receives the income, and does not spend it, but invests it in the purchase of other property, their Lordships think that, *primâ facie*, it is the intention of the widow to keep the estate of the husband as an entire estate, and that the property purchased would, *primâ facie*, be intended to be accretions to that estate. There may be, no doubt, circumstances which would show that the widow had no such intention, that she intended to appropriate the savings in another way. There are circumstances here which would indicate that it was the intention of the widows to keep the estate entire and that they did not intend that the husband’s estate and the subsequently purchased properties should go in a different line of succession, because their act, in what they did with regard to the Defendant, was to make a gift to him of the whole of the property, and professing to do it so as to, what seems to be called, carry out the intentions of Sheodyal and found a Thakoorbari, with which the estate would be connected. The transaction appears to indicate that their intention was not to create separate estates, one to go in one way, and another in another, but to keep the whole as one entire property; and applying what is said in the case of *Isridut Koer and another v. Mussumat Hansbati Koerin and others* to the present case, there do not appear to be circumstances which would show that there was any other intention than that the purchased property should be accretions to the inherited property. The High Court has found that, and their Lordships see no ground for

saying that the Court has not come to a proper conclusion from the evidence.

Their Lordships will therefore humbly advise Her Majesty to affirm the decision of the High Court, and to dismiss the appeal, and the Appellants will pay the costs.