Privy Council Appeal No. 157 *of* 1917.

Chintamanibhatla Venkata Reddi Pantulu Garu and another - *Appellants*

v.

Her Highness Sri Maharani Sri Sitaba Garu, Rani Saheba of Wadhwan - - - - - - - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT MADRAS.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 18TH NOVEMBER, 1919.

Present at the Hearing:

LORD SHAW.
LORD PHILLIMORE.
SIR JOHN EDGE.
MR. AMEER ALI.
SIR LAWRENCE JENKINS.

[*Delivered by* LORD SHAW.]

This is an appeal from a decree of the High Court of Madras, dated the 29th February, 1916. It reversed a decree of the District Court of Vizagapatam, dated the 7th October, 1914.

The object of the suit, which was by a reversioner, was for the purpose of setting aside a deed of sale—an alienation by a widow: and the pinch of the case, as argued in the Courts below and before their Lordships, is whether that alienation is challengeable on the ground that it is made without legal necessity. The sale took place so far back as the 5th May, 1830. The widow in question survived that sale by no less a period than 70 years, she having died on the 15th December, 1900. The suit in the present case was instituted in the year 1912, within a few days from the expiry of the period of limitation under the statute. It results accordingly that the investigation subsequent to the initiation of the suit in 1912 was an investigation with regard to the circumstances of a transaction more than 82 years after that transaction took place.

In these circumstances their Lordships—the case being singular in these points of date—are moved to repeat as part of their own judgment the following propositions, which represent, in their view, both the sense as well as the law of the situation so disclosed. In the judgment appealed from the learned Judges of the High Court lay down the law as follows :—

> "It is not disputed that the onus lay upon the defendant to prove the necessity for the sale, but having regard to the great lapse of time since the transaction took place, that is, about 82 years, perhaps the highest on record, it will not be reasonable to expect such full and detailed evidence as to the state of things which gave rise to the sale in question as in the case of alienations made at more or less recent dates. In such circumstances, presumptions are permissible to fill in the details which have been obliterated by time."

Their Lordships adopt that statement of the law.

They desire indeed only to add that it is matter of some surprise that so much documentary evidence still remains: and from a perusal of it and the whole proceedings in the case they see no cause to doubt that the decree pronounced by the High Court is one which ought to be affirmed. They have the less reason to doubt this on account of the argument of the appellants presented to the Board, which appears to have exhausted every avenue of attack open to a person challenging an ancient transaction.

Their Lordships will humbly advise His Majesty that this appeal stand dismissed with costs.

In the Privy Council.

CHINTAMANIBHATLA VENKATA REDDI PANTULU GARU AND ANOTHER

v.

HER HIGHNESS SRI MAHARANI SRI SITABA GARU, RANI SAHEBA OF WADHWAN.

DELIVERED BY LORD SHAW.

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