

(1919) 05 AHC CK 0010

Allahabad High Court

Case No: None

Sardar and Others

APPELLANT

Vs

Jwala Singh and Others

RESPONDENT

Date of Decision: May 8, 1919

Citation: (1919) ILR (All) 629

Hon'ble Judges: George Knox, Acting C.J.; Pramada Charan Banerji, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

George Knox, Acting C.J. and Pramada Charan Banerji, J.

The suit out of which this appeal arises was brought by the plaintiffs respondents to recover possession of two cultivatory holdings, namely, the whole of khata No. 32 and a fourth share in khata No. 50. The holding in khata No. 32 has been found to have been the non-occupancy holding of one Patipal Singh. The plaintiffs are the illegitimate sons of Patipal Singh. The defendants are his brothers. It has been found that Patipal Singh was the son of one Debi Singh who was a Kshatriya. Patipal Singh's mother was a Sudra and the question is--what was the status of Patipal Singh? If he was a Sudra, his illegitimate sons, the plaintiffs, would succeed to his holding. If he belonged to some higher caste, the illegitimate sons would have no right of succession. The point does not appear to have been decided by this Court, but it was considered in an elaborate judgment by the Madras High Court. In the case of Brindavana v. Radhamani I.L.R.(1888) Mad. 72 it was hold that the illegitimate son of a Kshatriya, by a Sudra woman is not a Sudra but was of a higher caste called "Ugra". This view is supported by the authorities cited in the judgment, and we have not been referred to any case in which a contrary view has been held. We think upon the authorities we should follow the view adopted by the Madras High Court. The result is that Patipal Singh belonged to a higher caste than that of a Sudra, and therefore his illegitimate sons would not succeed to the property which belonged to him. In this view the plaintiffs' claim failed and should have been

dismissed. We allow the appeal, set aside the decree of this Court and of the courts below and dismiss the suit with costs in all courts.