

(1896) 07 AHC CK 0006

Allahabad High Court

Case No: None

Rustam Singh

APPELLANT

Vs

Moti Singh

RESPONDENT

Date of Decision: July 16, 1896

Citation: (1896) ILR (All) 474

Hon'ble Judges: John Edge, J; Blennerhassett, J

Bench: Division Bench

Final Decision: Allowed

Judgement

John Edge, Kt., C.J. and Blennerhassett, J.

The plaintiff brought his suit for sale on a mortgage made by a married Hindu lady in the life-

time of her husband of property which had come to her from her father and was not her stridhan. The consideration for the mortgage was money

advanced by the plaintiff to the lady in order to enable her to get her daughter married. Her daughter was the daughter of her husband then living.

The lady also had a son living, who is still a minor, and is a defendant to this suit. Her husband was diet Singh. The defence is that she had no

power to grant the mortgage in question. The first Court decreed the claim. The Court of First Appeal dismissed the suit. As we read the judgment

of the Court below, the greater part of Chet Singh's property was mortgaged, and what remained was barely sufficient for the support of himself

and his family. It was under these circumstances that Alaf Kuar borrowed the money and made the mortgage. There can be no doubt that it was

the father's duty in this instance to get his daughter married. His son was a minor, and, so far as appears, they were the sole members of the family.

The father was unable out of his resources to effect the marriage of his daughter, and thereupon Alaf Kuar, the mother of the girl, was obliged to have recourse to the property that came from her father to her. There is no doubt of its being the pious duty of the father to effect the marriage. He was unable to do so; so under these circumstances we think that the money, the consideration of this mortgage, was borrowed for necessary purposes, namely, the marriage of the daughter. We allow this appeal, and set aside the decree of the Lower Appellate Court and restore the decree of the first Court with costs in all Courts.