
(1877) 05 AHC CK 0003

Allahabad High Court

Case No: None

Ballabh Das

APPELLANT

Vs

Sunderdas and Others

RESPONDENT

Date of Decision: May 18, 1877

Citation: (1875) ILR (All) 429

Hon'ble Judges: Spankie, J; Oldfield, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. We are of opinion that the Judge has not properly considered the effect of the auction-purchase of the respondent on the constitution of the joint family and the joint property; that purchase by introducing a stranger as owner of the rights and interests of two of the members of the original undivided Hindu family broke up the constitution of the family as an undivided Hindu family. The joint Hindu family is constituted by the union of descendants by heirship from some common ancestor, and there must be connection among its members by blood, relationship, adoption, and marriage. Property held in such coparcenership will be joint family property, the introduction of strangers in blood by auction-purchase necessarily breaks up the family relation.

2. Sir T. Strange, writing of the joint family, says "in the property thus descended, so long as they remain undivided, the family possesses a community of interest"; and the context shows that a descent of heirs is meant.

3. We may refer also to a passage in West and Buhler, Part II, ii, and the rules under which partition which operates in respect of the undivided family takes place, show that an undivided family is constituted in the sense indicated.

4. The gift to the plaintiff is therefore not invalid on the ground hold by the Judge. (The Court then went on to remand the ease for the trial of the other issues raised by the defence.)