
(1878) 02 AHC CK 0006

Allahabad High Court

Case No: None

Mahabir and Another

APPELLANT

Vs

Bajnath

RESPONDENT

Date of Decision: Feb. 19, 1878

Citation: (1875) ILR (All) 608

Hon'ble Judges: Robert Stuart, C.J; Spankie, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. The decision of the lower Appellate Court appears to be open to the objection taken by the special appellant. It has been held by the Judicial Committee of the Privy Council in the case of *Amirtolal Base v. Rajoneekant Hitter* LR 2 IndAp 113 : SC 15 BLR 10 : 23 WR 214 that a daughter's son is not entitled by Hindu Law to succeed as heir to his maternal grandfather's estate, so long as any daughter not disqualified, or in whom a right of inheritance has once vested, survives. This precedent applies to the present case in which Batasi Kuar, on the death of her sister, became the sole owner of their father's property. Batasi Kuar still survives; therefore neither the Munsif nor the Subordinate Judge should have decreed the claim of the plaintiff's with respect to the share of Phulra Kuar, the second daughter. The Court below should have dismissed the claim of the plaintiff's in toto, and should not have decreed it with respect to Phulra Kuar's share. We accordingly decree the appeal and modify the decision of the Court below so as to dismiss this portion of the claim.