

(1878) 01 AHC CK 0012

Allahabad High Court

Case No: None

Madho Das

APPELLANT

Vs

Kamta Das

RESPONDENT

Date of Decision: Jan. 2, 1878

Citation: (1875) ILR (All) 539

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

Bench: Division Bench

Judgement

Spankie, J.

Who, after stating the facts, continued: With reference to former precedents of the late Sudder Dewanny Adawlut of those Provinces, we cannot say that the Subordinate Judge was in error in dismissing both claims for the reasons assigned by him, since it was not for him to make out a title which neither plaintiff alleged for himself as his ground of action. But he was right in noticing the defect, because it had been pleaded by the defendant in appeal.

2. It has been laid down by the late Sudder Dewanny Adawlut In Nirunjun Barthee v. Padaruth Barthee S.D.A. N.W.P. 1864 vol. I 512 that amongst the general tribe of fakirs called Saniasis (and the plaintiffs here appear to be of the description) a right of inheritance strictly so speaking to the property of a deceased guru or spiritual preceptor does not exist; but the right of succession depends upon the nomination of one amongst his disciples by the deceased guru in his own lifetime, which nomination is generally confirmed by the mahants of the neighbourhood assembled together for the purpose of performing the funeral obsequies of the deceased. Where no nomination has been made the succession is elective, the mahants and the principal persons of the sect in the neighbourhood choosing from amongst the disciples of the deceased guru the one who may appear to be the most qualified to be his successor, installing him then and there on the occasion of performing the funeral ceremonies of the late guru.

3. Neither plaintiff avers that he was nominated by the deceased Paras Ram during his life and confirmed afterwards, nor does either assert that in consequence of Paras Ram's omission to nominate a successor, he had been elected after the Litter's death by the neighbouring mahants and members of the sect; but both plaintiffs have based their claim on inheritance and discipleship, which would not be sufficient to establish a right of succession. We therefore dismiss the appeal and affirm the judgment of the lower Appellate Court with costs.