

(1879) 12 AHC CK 0010

Allahabad High Court

Case No: None

Chandra Dai

APPELLANT

Vs

Audh Kumari and
Others and Pran Dai
and Sita Dai

RESPONDENT

Date of Decision: Dec. 15, 1879

Citation: (1880) ILR (All) 561

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

Bench: Division Bench

Final Decision: Dismissed

Judgement

Pearson, J.

We consider it to be well established by the evidence on the record that Sita Dai is the daughter of Bishan Prasad and sister of the plaintiff in the connected suit. The lower Court's finding on the point appears to be quite right, and the objection taken to it by the plaintiff, respondent, is disallowed. It is also well established, in our opinion, that the plaintiff in this suit as well as her sister, the plaintiff in the other suit, are in much better circumstances than their sisters Pran Dai and Sita Dai. The two plaintiffs married two brothers, sons of Bindesri Prasad Pandey, who was a man of considerable wealth to shares in which their husbands have succeeded. At the time of their marriage Bishan Prasad made over a valuable estate, known as Sitapur, comprising 811 acres, to Bindesri Prasad aforesaid, for their maintenance. It appears, however, that the estate really remained in Bishan Prasad's own possession until his death in 1877, and that the profits of it were given to them. Their husbands possess considerable property and keep horses and elephants. On the other hand, it is shown by the evidence that Pran Dai is a widow, whose husband pre-deceased his father, and who now lives with her mother, and has very scanty means of subsistence. Her husband's father was apparently a poor man. Sita Dai's husband is alive, and has some extremely minute shares in several villages, which

yield a profit of about Rs. 21 per annum altogether, and it is in evidence that his shares in nine out of the twelve villages are encumbered with a mortgage. There can be no doubt, we think, that Pran Dai and Sita Dai are, as compared with their sisters, the plaintiffs in these suits, poor and needy. The lower Court has ruled that, inasmuch as they are not beggars, they are not so indigent as to be entitled, under Hindu law, to succeed to the property in suit, the estate left by their father, in preference to and by exclusion of their more affluent sisters. In that ruling we are not prepared to concur. The original Sanskrit word which has been translated indigent has also been translated unprovided and unendowed. Commentators are said to differ as to whether provision or endowment by a father or by a husband is meant. Without deciding the controversy we may observe that the plaintiffs in these suits have abundant provision made for them both by their father and by their husbands, while their sisters have not been similarly provided for. We find that in two cases which have been brought to our notice, decided by the Bombay High Court, . Bakubai v. Manchhabai 2 Bom. H.C. Rep. 5 and Poli v. Narotum Bapu 6 Bom. H.C. Rep. 183, it has been held that comparative poverty is the only criterion for settling the claims of daughters on their father's estate. Accepting the view of the law taken by the Bombay High Court as correct, we have no alternative but to decree the appeal and dismiss the plaintiff's suit with costs.