(1914) 05 CAL CK 0005

Calcutta High Court

Case No: Appeal From Appellate Decree No. 1884 of 1912.

Mokunda Lal Chakrabarti and Another		APPELLANT
	Vs	
Mon Mohini Debi and Another		RESPONDENT

Date of Decision: May 20, 1914

Citation: (1914) 05 CAL CK 0005

Final Decision: Dismissed

Judgement

Fletcher, J.

This is an appeal from a judgment of the learned District Judge of Birbhum, dated the 30th March 1912, dismissing an appeal from the judgment of the Munsif, dated the 31st March 1911. The suit was brought to recover possession, of certain moveable and immoveable properties by the agnates of one Shiban Chakrabarti who died many many years ago, leaving his widow and a daughter who, for the purposes of this case we must assume, was a widowed daughter who was also sonless. On the facts as found by the learned Judge of the lower Appellate Court, after the death of the widow the daughter succeeded to the properties and the only question that we have got to consider in this case is whether the Plaintiffs'' suit is barred by limitation. The determination of that question depends ON the question as to whether the daughter of Shiban Chakrabarti, that is, Sri Sundari, took the properties as the heiress of her father or whether she was in possession of them adversely against the heirs. The point has been argued with considerable force by the learned Vakil for the Appellants and, notwithstanding those arguments, I remain unconvinced that, according to the Hindu Law, a sonless widow is an heir. The arguments put forward by the learned Vakil are rather for the reformer than for the Law Courts. The matter can be based chiefly on the construction of the Hindu Widows Ee-marriage Act, XV of 1856. Sec. 4 of that Act may be of some importance, because it expressly excepts a widow marrying again from succeeding to any property which, before the passing of the Act, she would have been incapable of inheriting by reason of her

being a childless widow. It is quite true that Sri Sundari was not childless but only sonless. There is nothing however to show that Sri Sundari ever did marry again and, if she has not married again, she is governed by the rules applicable, to the other Hindus. It cannot be suggested, notwithstanding the statements in the text-books, that, in an. ordinary case of Hindu succession, a sonless widow'' is an heir. In my opinion, the present appeal fails and must be dismissed with costs.

Richardson, J.

I agree.