

Jagat Durlav Mazumdar Vs Indu Bhusan Mazumdar and Others

Court: Calcutta High Court

Date of Decision: Nov. 30, 1917

Acts Referred: Probate and Administration Act, 1881 " Section 98(1)

Citation: 44 Ind. Cas. 58

Hon'ble Judges: Teunon, J; Newbould, J

Bench: Division Bench

Judgement

1. No one appears in opposition to this appeal. The appeal is directed against an order of the District Judge of Nadia, namely, the order of the 9th

June modified by the order of the 13th June. By the order of the 9th as thus modified, the petitioner who is the executor and has obtained Probate

of the Will of his wife has been required to submit an account annually and he has also been required to give a bond with one surety in an amount

representing the full value of the moveables dealt with by the Will and three years' income of the Immovable properties disposed of thereby. By

the Will the moveable properties are divided between three persons of whom the executor the husband is one, and the Immovable properties are

dedicated to an idol of whom the executor is appointed the shebait. Having regard to these provisions of the Will we think that the amount of

security required is somewhat excessive and we, therefore, fix it in the sum of five thousand rupees. As to the number of sureties the order will

remain unmodified. The order, in so far as it directs the petitioner to furnish accounts annually, is clearly not in accordance with the provisions of

Section 98 (1) of the Probate and Administration Act and is accordingly set aside. We may remark that accounts under the Probate and

Administration Act cannot be required from the petitioner as shebait but only from the petitioner as executor, and so far as we have been able to

appreciate the provisions of the Will, there seems to be no reason why administration should not have been completed long ago and why, if not so

completed, it should not be now completed within a very short period of time.

2. This appeal is accordingly decreed in the terms set out above. We make no order as to costs.