

59 Ind. Cas. 882

Calcutta High Court

Case No: None

In Re: Sourabmoni
Dassi and Benode
Behary Audhikary

APPELLANT

Vs

RESPONDENT

Date of Decision: Nov. 11, 1919

Citation: 59 Ind. Cas. 882

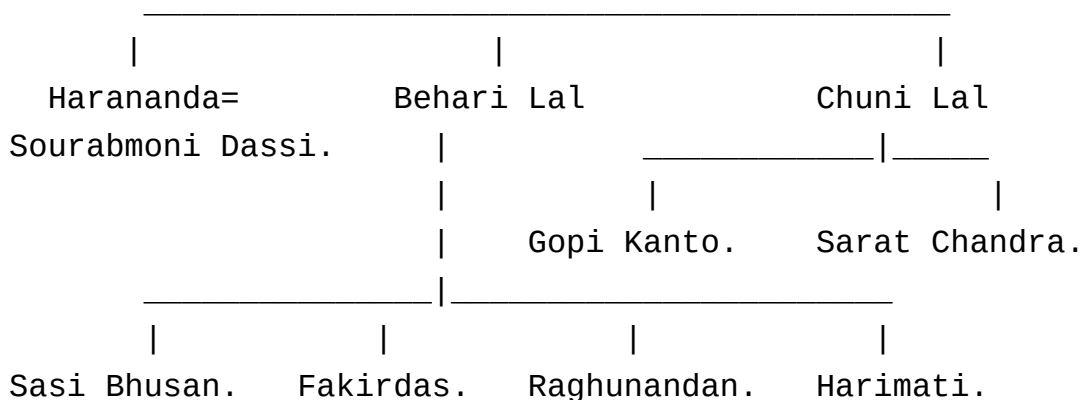
Hon'ble Judges: Ghose, J

Bench: Single Bench

Judgement

Ghose, J.

This is an application by one Benode Behary Audhikary for grant of Letters of Administration in respect of the property and credits of one Sourabmoni Dassi who is said to have died on the 3rd June 1908. The application is based upon the allegation that the applicant was the husband of the deceased, having married her about 15 or 16 years ago in the Kanti form prevalent amongst Vaishnabs. The application is opposed by five persons whose names are Shashi Bhushan Bhur, Sarat Chander Bhur, Gopi Kant Bhur, Fakirdas Bhur and Raghunandan Bhur. Their relationship to the deceased will be apparent from the following genealogical table:



2. It appears that the deceased was, before her alleged marriage with the applicant, the widow of one Harananda Bhur who died some time in 1898, After the death of Harananda she instituted a suit in this Court, being Suit No. 799 of 1899, against her husband's relations for partition and accounts. As a result of that suit she obtained, among other property, a sum of Rs. 8,000 for her absolute use; with a portion of this money she is said to have purchased premises No. 162 Musjid Bari Street in the Town of Calcutta. The applicant alleges that he came to know her shortly before or about the time of the suit referred to above and that he looked after her interests in the course of that litigation. He says that he belongs to the Baul sect of the Vaishnabs and that, shortly before he married the deceased in the Kanti form prevalent among Vaishnabs, the deceased had become a Vaishnab, and that the marriage in question took place in the presence of a large number of people. Among the people who were present at the marriage, he has examined before me two persons, namely, Notober Goswami and Ram Kumar Chatterjee. The following issues were settled between the parties:

1. Whether the marriage of the applicant with the deceased in the Kanti form took place as alleged by the applicant?

2. If the marriage did, in fact, take place, whether the applicant is entitled to Letters of Administration?

3. The applicant has given evidence before me, and in support of his case he has examined the persons whose names I have mentioned, Notober Goswami and Ram Kumar Chatterjee. The defendants have not examined any witnesses save and except their Solicitor, Babu Ganendra Nath Dutt. I have carefully examined the evidence adduced before me and I have come to the conclusion that, having regard to the mode of life apparently led by the deceased after the death of Harananda Bhur, there is nothing inherently improbable in the story told by the applicant and his witnesses. Indeed, on the question before me, namely, as to whether or not the marriage referred to by the applicant took place the evidence is all one sided and it is not necessary to discuss the evidence in detail. Although it is perfectly true that in the petition filed in this Court for grant of Probate to the Will of the deceased propounded by the applicant in 1909, it was not stated that the applicant had married the deceased in the Kanti form, he did mention the fact of such marriage in the course of his deposition in the Probate proceedings. I am satisfied on the evidence that both the deceased and the applicant were Vaishnabs and that the applicant had been married to the deceased by what is known as the Kantibadal ceremony. Such a marriage is undoubtedly valid among Vaishnabs (See Bannerjee's Marriage and Stridhan, page 269 and Risley's Tribes and Castes of India, Volume II, page 341). There is no reason why the testimony of the applicant should not be accepted, and, although it is particularly necessary in these cases to scrutinise the evidence of the applicant and his witnesses minutely, I think, on the whole, the applicant must be held to have discharged the onus that lay on him. I, therefore, answer the first issue in favour of the applicant, and, that being so, the second issue must also be answered in favour of the applicant. I direct, therefore, that Letters of Administration of the property and credits of

the deceased be granted to the applicant. The caveat will be discharged and the caveators will pay the costs of the applicant on Scale No. II.