

(1875) 01 CAL CK 0004

Calcutta High Court

Case No: None

Promotho Dossee

APPELLANT

Vs

Radhika Persaud Dutt
and Others

RESPONDENT

Date of Decision: Jan. 27, 1875

Judgement

Macpherson, J.

It was contended for the plaintiff that the will, as far as it provided for a dedication to the idols, and as far as it restrained alienation of the property, was void and inoperative; and that the defendants, therefore, as heirs and legal representatives" of the testator had power to sell a portion of the property sufficient to pay legacies bequeathed in the will. For the defendants it was admitted that the devise to the idols was bad; but they submitted that some provision must be made for the expense of maintaining and for the worship of the idols.

3. Macpherson, J., was of opinion that the will, except with regard to the legacies, was bad as tending to create a perpetuity, and as not being a real dedication to the idols, and accordingly made the following decree:--

That the devise of the property to trustees for ever for the worship and residence of the idols, and of the sebais thereof, and for the residence of the male descendants of the testator for ever, is ineffectual and void, as being in fact a settlement on his male descendants for ever, and for their use, and not a real dedication for the worship of the idols; that the testator died intestate in respect of the said property; that (by consent) an account of the debts and legacies be taken by the Registrar; that the house No. 124--26, Manick Bose"s Lane, be sold by the Registrar for payment of the costs when taxed, and the debts and legacies of the testator; that the idols be kept in No. 124, Durmahatta Street, and that the income derivable from that house and land be applied towards the expenses of the worship of the idols, and that the costs of the suit be paid out of the estate.