

(1906) 07 BOM CK 0014

Bombay High Court

Case No: Second Appeal No. 63 of 1906

Rakhmabai Pandurang

APPELLANT

Vs

Keshav Raghunath Bhise

RESPONDENT

Date of Decision: July 25, 1906

Citation: (1906) 8 BOMLR 675

Hon'ble Judges: K.C.I.E., C.J; Lawrence Jenkins, J; Beaman, J

Bench: Full Bench

Judgement

Lawrence Jenkins, K.C.I.E., C.J.

The plaintiff sues to recover possession of property from the defendant who relies on an alienation in his favour made by the widow of a preceding owner.

2. It has been held by both the lower Courts that the alienation was not justified by any necessity recognized by Hindu Law.

3. Consequently it is not open to the defendant to rely on Article 91 of the Limitation Act as a bar to the suit. (See Hdrihar Ojha v. Dasarathi Misra ILR (1905) Cal. 257.

4. Then it has been contended on the part of the defendant that the Court should be required to come to a definite finding as to whether or not the preceding reversioner, under whom the plaintiff claims, ratified the alienation. But, in our opinion, it is clear that if the doctrine of ratification has any application to this case, the fact of ratification is negated by findings of the lower appellate Court.

5. We must therefore confirm the decree with costs.