

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Chellayamal v. Muttialamal and Lavungareddy, from the High Court of Judicature at Madras; delivered 1st December, 1870.

Present:—

SIR JAMES W. COLVILLE.

LORD JUSTICE JAMES.

LORD JUSTICE MELLISH.

SIR LAWRENCE PEEL.

THIS is a mere question of evidence. The Appeal is simply on the ground that the Court below has not come to a right conclusion upon matters of fact and matters of inference from written documents. Both Courts, the Court of First Instance and the Court of Appeal in India, arrived at the conclusion that certain property which is assumed by the Court of Appeal, at all events, to have been originally acquired property of Paupa Reddy, had been thrown by him, although his separate acquisition, into a common stock. If, although originally a separate acquisition, thrown by him into a common stock, beyond all question the Appellant was wrong and the Respondents were right in the litigation.

Upon that question of fact the Court below has considered that two documents were themselves sufficient evidence of that fact. The one was a document which is called Exhibit 1, and it is as follows;—“The humble petition of Babu Reddy” (the same man who is called Paupa Reddy), “Zemindar of the Gari Mitta of Muttakapatti, etc., “in the Taluk of Namakal. The muttas registered in my name” (which are the muttas in question), “and those registered in the names of “myself and my elder brother’s son, Polam Reddi, “Zemindar of Sali Mutta, and all other property “enjoyed by us as also the Choultry and the

“charities, belong after my death to the said Polam Reddy, and to none else.” The Court below was of opinion that that writing was a writing evidencing a very deliberate admission and recognition by Paupa Reddy of the then existing condition of the property—that it is part of a joint property of himself and Polam Reddy.

They referred to another Exhibit, No. 30, which is to the same effect, and then they say,—“Then, in Exhibit 4, an income-tax return, made in 1861, we find Paupa Reddy lumping these four muttas together with the other lands which were undoubtedly the joint property of himself and Polam Reddy, and treating them all alike as joint property. By itself, this admission might not have been of very great value; but, following, as it does, the solemn recognition of the muttas as joint property made in 1860, it is, we think, very important evidence in favour of the Defendants.”

Their Lordships think it is utterly impossible for them to come to the conclusion that the Court below was wrong in treating these documents as very important evidence, and in drawing the conclusion that the proper inference from them was, that it was a recognition of the fact that the separate property had become joint property.

Their Lordships see no ground whatever for disturbing the finding of the Court below; and they will, therefore, humbly recommend Her Majesty to dismiss this Appeal with costs,

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