

Privy Council Appeal No. 53 of 1925.

Bengal Appeal No. 15 of 1924.

Lalit Mohan Pal Roy - - - - - *Appellant*

v.

Srimati Dayamoyi Roy Chowdhurani (since deceased) - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 29TH OCTOBER, 1926.

Present at the Hearing :

LORD PHILLIMORE.

LORD SINHA.

MR. AMEER ALI.

LORD SALVESEN.

[*Delivered by* LORD PHILLIMORE.]

Their Lordships are of opinion that the judgment of the High Court is right for the reasons given by that court and especially for the reasons at line 25 on page 4 of the second part of the record where their Lordships say :

“ It is possible that although no charge was created, the original debt having been for lawful purposes, the creditor might have recovered his debt from the estate left by Bharat, if he had chosen to do so. But in order to make the estate liable he ought to have framed his suit in a proper manner. What he asked for was simply to have a personal decree against Monomohini and the guardian who was made the second defendant. The court passed a decree against the minor alone. It does not appear anywhere that the minor was made a party to the suit as representing her father's estate.”

Their Lordships will only add to this that they have been very much struck by the different framing of the two suits : the suit against the father's estate in which the original debt was created, and the suit against Monomohini and her guardian.

Their Lordships will therefore humbly advise His Majesty that this appeal should be dismissed with costs.

In the Privy Council.

LALIT MOHAN PAL ROY

*,

SRIMATI DAYAMOYI ROY CHOWDHURANI
(SINCE DECEASED).

DELIVERED BY LORD PHILLIMORE.

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