

Mir Safdar Ali *alias* Gondumiya and another - - - *Appellants*

v.

Mirza Maksudali Beg - - - - - *Respondent*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER OF THE CENTRAL
PROVINCES.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 29TH OCTOBER, 1929.

Present at the Hearing :—

LORD BUCKMASTER.

VISCOUNT DUNEDIN.

LORD TOMLIN.

SIR GEORGE LOWNDES.

SIR BINOD MITTER.

[*Delivered by* LORD BUCKMASTER.]

It is to be regretted that the ingenuity of Counsel persuaded the Board to advise His Majesty to grant special leave to appeal in this case ; for, in fact, when the matter comes to be examined, there is no fit subject matter for the consideration of this Board at all.

The question arises in proceedings taken to recover possession of land, and the whole point which is now before their Lordships for determination is whether the plaintiff was disentitled to maintain his suit because he claimed through a female as one of the lineal heirs of the *Inamdar*, Mir Akbar Ali, who was entitled to the *Inam* grant of the lands in dispute. That these lands were *Inam* lands, that Mir Akram Ali held them as the *Inamdar*, and that they had descended from him, is beyond question. The real point is whether or not the Rules that were laid down by the

Government for the regulation of these *Inam* grants entitle female representatives to claim equally with the males. The Rules that are relevant are these : If the *Inam* is a personal or subsistence grant, it will be confirmed to the holder according to its actual terms, and “ If the present incumbent is a descendant of the original grantee, the *Inam* will be continued to him hereditarily, subject to the following conditions :—First, successions limited to direct lineal heirs and undivided brothers.”

The argument in support of the appeal is that the succession so limited to lineal heirs means lineal male heirs. It is plain, according to every rule of interpretation, that if you wish to limit the word “ heirs ” either to the male or female line, it is essential that you should do so in direct terms, or by necessary implication ; and in the absence of that limitation there is nothing where female inheritance is possible to prevent the female being an heir equally with the male. It is indeed manifest, when the history of this case is examined, that the estate has been dealt with upon this principle from the original grant down to the present time. The copy of the *Inam* certificate granted at the date, which is stated to be 1870, shows perfectly well that, although the name of the *Inamdar* was entered as “ Mir Mahomed Ali, son of Mir Mahbub Ali,” there was recognition of the fact that he had a brother and two women who were co-sharers with him in the estate, and another entry shows the succession of a son Mirza to his mother, Ashrafi Begum.

It is not only that the interpretation of the words bear the meaning for which the plaintiff contended, but that meaning has been recognised and acted upon, as far as one can tell, uninterruptedly from the date of the Rules down to now. Therefore there can be no ground for this appeal, and their Lordships will humbly advise His Majesty that it be dismissed with costs.

THE HISTORY OF THE

1873

In the Privy Council.

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ANOTHER

v.

MIRZA MAKSUDALI BEG.

DRIVERED BY LORD BUCKMASTER.

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