CALCUTTA HIGH COURT

Grish Chunder Prochundo ‘

Vs

Wooma Pershad Roy

(Mcdonell, C.J. Field, J.)

24.04.1884

JUDGMENT

Field, J.

1. The first point raised in this appeal is, that insanity at the time when the inheritance falls in is not, according to the Hindu law, a disqualification for inheriting, but that according to that law it must be shown that the person who is sought to be disqualified was insane from his birth. We find that this question has been concluded by authority. See the case of Dwarka Nath Bysak v. Mahendra Nath Bysak 9 B.L.R. 198. It was then decided on appeal from the Original Side, that insanity at the time when the succession opens out is sufficient to disqualify. We find that the same point had been previously decided by two learned Judges of this Court in the case of *Braja Bhukan Lal Ahusti v. Bichan Dobi*[1] note. It was held the other day by a Division Bench of this Court in the case of *Ram Sahye Bhukkut v. Lala Laljee Sakye*[2] that under the Mitakshara law a person who is at the time insane is not entitled to share upon a partition in a joint family. This case, though not a direct authority, supports the view taken in the two previous cases already referred to. We must, therefore, decide against the appellant upon the first point.

2. Then it is contended that there is no sufficient finding to support the judgment of the Court below. It is said that the Subordinate Judge has not found that degree or that kind of mental derangement which would be sufficient to create disability. The Subordinate Judge proposes to himself as the second issue to be tried whether, at the time of the death of Rama Nath's daughter, Gourmoni, her sister's son, Sossi Saran, was insane, and he answers this by saying in his judgment: "It appears to be clearly and satisfactorily proved that Sossi Saran was insane at the time of Gourmoni's death." He then goes on to add a few remarks and finishes up by saying: "I think there can be little doubt that his mind was deranged, and that he was unfit for the ordinary intercourse of life." It is said that his being unfit for the ordinary intercourse of life is not evidence of insanity. We think the Subordinate Judge did not mean to say that it was. The observation that he was unfit for the ordinary intercourse of life was added on to the finding that his mind was deranged, and might well be meant to imply that this was the consequence of

mental derangement. We think there are no grounds for this appeal, which must therefore be dismissed with costs.

Cases Referred.

19 B.L.R. 204

2I.L.R. 8 Cal. 149: 9 C.L.R. 437