

Case Description



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9. It is admitted position according to the will itself that the appellant was the only executor appointed in the will by the deceased, therefore, he had all the powers of the executor in respect of all the property of the deceased and he could, therefore, file the present suit although he could not claim that the debt owing from the respondent had also been bequeathed to the appellant.

10. Since there is no other point involved in this appeal, therefore, I reverse the finding in respect of, issued in **Succession Act 1925-319** and **Succession Act 1925-319** by the appellant was competent and he was- entitled to recover the amount of the suit from the respondent as he was the executor of the will, and probate had been granted to him. The suit is, therefore, decreed as prayed in the plaint. The execution of the decree would however, be subject to the provisions of the Deccan Agriculturist Relief Act because the finding in respect of, the defendant being an agriculturist was not challenged before me. This appeal is, therefore, disposed of in the above terms with costs.

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A.A.

Appeal allowed

Succession Act 1925-319

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NAROMAL VS ABDUL SATTAR

Succession Act 1925--2 , Succession Act 1925--306 , Succession Act 1925--318 , Succession Act 1925--319 ,

Succession Act 1925 ---Ss. 2(c), 211(1)(2), 305, 306, 318 & 319--Object and scope of provisions--Interpretation--Scheme of Act--Debt. of deceased though did not vest in plaintiff but he was admittedly the only executor of last will of deceased--Being the only executor of will appointed by deceased, plaintiff could file suit for recovery of debt due to executor though he could not claim that debt owing from respondent,. had also been bequeathed to him--Necessity of keeping distinction between executor of will and legatee as such emphasised.

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9. It is admitted position according to the will itself that the appellant was the only executor appointed in the will by the deceased, therefore, he had all the powers of the executor in respect of all the property of the deceased and he could, therefore, file the present suit although he could not claim that the debt owing from the respondent had also been bequeathed to the appellant.

10. Since there is no other point involved in this appeal, therefore, I reverse the finding in respect of, issues Nos. 3 and 4 and hold that the suit filed by the appellant was competent and he was- entitled to recover the amount of the suit from the respondent as he was the executor of the will, and probate had been granted to him. The suit is, therefore, decreed as prayed in the plaint. The execution of the decree would however, be subject to the provisions of the Deccan Agriculturist Relief Act because the finding in respect of, the defendant being an agriculturist was not challenged before me. This appeal is, therefore, disposed of in the above terms with costs.

> Notifications

A.A.

Appeal allowed.

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