

shankar and others, were not entitled to the declaratory order they sought to obtain, but that if they were prevented from performing the duties or receiving the proceeds of the office in question, they might sue for damages.

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A special appeal was preferred against this decision by the original plaintiffs, on the ground, among others, that it was competent to them to sue for the declaratory order or injunction in question.

The appeal was argued before FORBES and TUCKER, JJ.

Dhirajlal Mathuradas for the appellants.

FORBES, J., delivered judgment:—We consider that the Court below was in error in holding that the appellants were not entitled to sue to obtain a binding declaration of their right to perform the duties of *pujaris*, and to receive the proceeds of the *mandir*. We, therefore, reverse the decree of the Court below, and remand the case in order that the Judge may decide whether the appellants have proved their title to the abovementioned declaration of right, and pass a new decree on the merits, awarding costs.

Decree reversed.

Special Appeal No. 33 of 1863.

July 21.

BA'I LAKSHMI, widow of Gopaldás *Appellant.*
LAKHMIDA'S GOPA'LDA'S, deceased, by his
sons and heirs..... *Respondent.*

*Hindú Widow—Maintenance.**

A Hindú widow, if destitute of the means of living, is entitled to maintenance from her husband's relatives, although she may have shared her husband's estate, and supported herself for a long period by trading.

BAI LAKSHMI, the appellant, brought this action in the Court of the Şadr Amín at Broach, to recover arrears of maintenance for one year, and a sufficient sum of money to provide a house to live in.

The original defendant, Lakhmidás, who was Bái Lakshmi's step-son, answered that he was not liable to the claim by Hindú law; that his mother-in law, the plaintiff, had taken a share of his father's estate, in addition to which she had her

* See 2 Bom. H. C. Rep., 2nd edn., 323.

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stridhan, and that as it was thirty-four years since his father's death, during which period the plaintiff had supported herself by money-lending, the claim was barred by the statute of limitations.

The Şadr Amín of Broach, who tried the case, held that as the claim for a house to live in had not been brought forward for twelve years, it was barred, and that the plaintiff could not maintain an action for arrears of maintenance under the ruling in Special Appeal No. 3896.

The defendant, Lakhmidás, having died after the passing of the Şadr Amín's decree, Bái Lakshmi preferred an appeal against the same, entering as respondents the names of the sons and heirs of Lakhmidás; and the question being then raised as to their liability, being the grandsons of Bái Lakshmi's husband, it was decided in the affirmative on the exposition of the Hindú Law Officer of the Court.

The Senior Assistant Judge of the detached station of Broach subsequently confirmed the decision of the Şadr Amín, on the ground that Bái Lakshmi, having shared her husband's estate, was not, by Hindú law, entitled to maintenance, and that it was proved she had for about thirty years supported herself by money-lending.

Bái Lakshmi thereupon preferred a special appeal in the High Court, on the ground that the respondents were liable to her claim according to Hindú law.

The appeal was heard by NEWTON and WARDEN, JJ.

McCombie for the appellant.

Dádábhái Frámji for the respondent.

NEWTON, J., delivered judgment:—The Court finds that the Senior Assistant Judge has not determined the present circumstances of the original plaintiff. It has been held that "she shared" the estate, the value of which is not mentioned: also "she lived by money-lending for about thirty years;" but the Court considers that, notwithstanding these facts, the obligation of maintaining her would still attach to her husband's relatives, should she now be destitute of the means of living. The decree of the Senior Assistant Judge is, therefore, reversed, and the case remanded that this point may be inquired into, and a new judgment given.

Decree reversed.