

in order that the Judge may determine whether the plaintiff can show that Narsi acted as representative of the family, and executed the mortgage under any common family necessity, or for their common benefit, and may pass a new decision in conformity with our view of the law.

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The second defendant, Rám Bhat, to be at liberty to prove that Narsi Bhat was not acting as manager, or that there was collusion between Gundo Bhat and Narsi.

Decree reversed.

Special Appeal No. 249 of 1863.

Aug. 24.

SÁLU kom RA'GHUJI *Appellant.*
RA'VJI bin RA'MJI and MAHA'DJI..... *Respondents.*

Limitation—Mirás' Land—Reg. V. of 1827, Sec. I.

The law of limitation contained in Sec. I. of Reg. V. of 1827 applies to Mirás land as well as to all other descriptions of immoveable property.

Special Appeals No. 2520 of 1850 (Morris's Selected Decisions, Pt. I., p. 51), and No. 3064 (Morris, S. D. A. Rep., Vol. II., p. 189), overruled.

THIS was an action brought by Rámji and Mahádji to recover possession of a *mirás* field which had been taken up by the defendant, Sálu, after they had left the country on account of poverty (*parágandá*). Sálu denied the plaintiffs' title to the land, and contended that her family had held it for fifty or sixty years from Government, and that the plaintiffs had never occupied it.

The case was tried by Khán Sáheb Ghulám Mohiuddin, Šadr Amín of Puná, who threw out the claim, on the ground that the plaintiffs had not produced sufficient evidence to warrant their ousting the defendant, Sálu.

On appeal, the Assistant Judge, F. D. Melvill, reversed the Šadr Amín's decree. He found that in the revenue records the land was entered as the plaintiffs' *mirás*, and although oral evidence proved that the defendant had cultivated it for some twenty or thirty years, and the plaintiff Rávji himself admitted not only that he had never cultivated the land, but that he knew nothing about his father ever having done so, yet the defendant, Sálu, had not produced proof to show that the land was not the plaintiffs' *mirás*. The Assistant Judge, in accordance with numerous rulings

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of the late Şadr Diváni Adálat (a), held that the plaintiffs were entitled to succeed upon the mere proof that the lands had been *mirás* land belonging to their ancestor.

Against this decision the defendant presented a special appeal.

The appeal was heard before SAUSSE, C. J., and FORBES and WARDEN, JJ.

Ganesh Hari for the appellant.

SAUSSE, C. J., delivered judgment:—In this case the Judge has not found whether the defendant was, or was not, in uninterrupted possession of the land in dispute for upwards of thirty years. His decree was based upon several decisions which were made by the late Şadr Adálat upon the principle that a *mirásdár* can claim the *mirás* land at any time, or, in other words, that no law of limitation applied to *mirás* land. Those decisions appear to us not to be satisfactory. We think that the limitation in Sec. 1. of Reg. V. of 1827 applies to *mirás* land, as well as to any other land. There is no reservation in that Regulation (b), and we do not think we should be warranted in importing words into it which the Legislature has not thought proper to do. We should be introducing the words "except *mirás* land" into the Regulation if we were to uphold the decisions of the late Şadr Adálat, and this we cannot do.

The Judge, however, has not entered upon the question of length of possession, but has decided the suit upon a ground which cannot be sustained. We, therefore, reverse the decree of the Court below, and remand the cause that it may be inquired whether the defendant, or those under whom she derives, have held the lands now in dispute without interruption for a longer period than thirty years, the Court declaring that the law of limitation contained in Reg. V. of 1827, Sec. 1., cl. 1, applies to *mirás* land, as well as to all other descriptions of immoveable property: costs to follow the final decision.

Decree reversed.

(a) Special Appeal No. 2520 of 1850, Morris's Selected Decisions, Pt. I., p. 51, and S. A. No. 3064, *Sooryabhan valad Wittojee Patel v. Bukajee ratal Tanajee and others*, Morris, S. D. A. Rep., Vol. II., p. 189, and the cases there cited.

(b) Reg. V. of 1827, Sec. 1.—"Whenever lands, houses, hereditary offices, or other immoveable property have been held without interruption for a longer period than thirty years, whether by any person as proprietor, or by him and his heirs, or others deriving right from him, such possession shall be received as proof of a sufficient right of property in the same."