

tion. On reviewing all accessible authorities, I have come to the conclusion that daughters take the immovable property absolutely from their father after their mother's death. I, therefore, hold that the plaintiffs have no *locus standi* to maintain this suit. The bill must be dismissed with costs against Devkúvarbái and the Advocate General. As to the other parties, though nominally defendants, they are virtually plaintiffs, and have been acting in concert with them: therefore, as to them I think the bill should be dismissed without costs.

1859.
PRA'NJIVAN-
DA'S
TULSIDA'S
et al.
v.
DEYKÚVAR-
BA'Í
et al.

Bill dismissed.

NOTE.—With the above decision compare the cases of *Rangasvámi Ayyangár v. Vanjulátammál*, 1 Mad. H. C. Rep. 28, and *Perammál v. Venkatammál*, *ib.* 223.

In the matter of the Petition of DA'NA'PPA' bin SUBRA' V.

1863.
Dec. 21.

Guardian ad litem—Mother of Infant.

In the absence of a competent and unobjectionable male relative, ready and willing to act as guardian *ad litem* of an infant, the mother of the infant may be appointed such guardian, if there be no objection to her on any ground but that of her sex.

THE petition in this case stated that the applicant, Dánápá, a minor, who appeared through his mother and guardian, Bassavá, had presented a petition through his mother, on the 24th of October 1863, to the Honorable G. A. Hobart, Judge of the District of Solápur, praying for permission to sue as a pauper, and that the petition had been dismissed, on the ground that a female guardian would be unable to discharge the functions of that office. The petition further stated that the male relatives of the infant were interested in the subject-matter of the suit, and that other objections existed to their being appointed guardians, and prayed that the order of the Judge might be set aside, and that he might be directed to accept Bassavá as the guardian of her son, the infant.

1863.

In re
DA'NA'PPA'
SUBRA'V.

Shántáram Náráyan appeared for the applicant.

PFR CURIAM (FORBES and WESTROPP, JJ.):—If no competent and unobjectionable male relative be ready and willing to act as guardian of Dánáppá for the purposes of the cause, and if there be no objection to the mother except on the ground of her sex, the Court are of opinion that she may properly be allowed to act as guardian in this suit.

Dec. 21.

GORA'KI bin KA'NOJI *Appellant.*
NATHU bin A'PPA'JI *Respondent.*

Mortgage—Surety—Assignment of Mortgage to Surety—Right of Mortgagor to redeem.

On a mortgage of land, with a proviso that, in default of repayment of the money advanced, the mortgage should be turned into a sale, a third party joined as surety undertaking to repay the amount advanced, if the mortgagor made default in payment at the stipulated time. Default was made, and the surety paid the money, and took an assignment of the land from the mortgagor.

Held—That the heir of the mortgagor was entitled to redeem, and that as against him the surety could not claim to hold the lands as purchaser.

THIS was a Special Appeal from a decree of T. Weeding, Acting Judicial Assistant to the Collector of Sátára.

The action was brought by the appellant (plaintiff below), in the Munsif's Court at Válvá, to recover possession of certain land, which he alleged the defendant had held under a lease from the ancestor of the plaintiff, which had expired several years before. The defendant denied the existence of the lease, and claimed to hold the land as assignee of Venkáji Raghunáth. The Munsif found that Viṭhu, uncle of the plaintiff, had mortgaged the land to Venkáji Raghunáth for Rs. 6, on condition that if not redeemed within one month the mortgage should be converted into a sale. The Munsif also found that the defendant, Nathu, had joined as a surety, agreeing to pay the mortgage-money to Venkáji, and to take the mortgage-property, if it were not redeemed by Viṭhu within the month; and that, Viṭhu having failed to redeem, Nathu had paid off the mortgage, taken possession of the land, and got it transferred in the revenue books to himself. He,