

*Special Appeal No. 769 of 1865.*1866.  
April 9.

CHANDRABHĀGĀBĀ'Ī KOM VYĀNKATESH

KĀ'SHINĀ'TH ..... *Appellant.*KĀ'SHINĀ'TH VĪTHAL ..... *Respondent.**Hindú Widow—Separation—Maintenance—Stridhani—Issues—Remand.*

The High Court remanded the case for the determination of issues regarding the circumstances of a widow, who claimed maintenance from her husband's father.

*Semle* separation from her husband's family does not deprive a Hindú widow of her right to claim maintenance from them, if she happens to be in needy circumstances.

THIS was a special appeal from the decision of W. Sandwith, Joint Judge of the Puná District at Sholápúr, in Appeal Suit No. 55 of 1864, reversing the decree of the Munsif of Bársí.

Chandrabhágábái brought the suit against Káshináth, the father of her late husband, for maintenance as follows:—Yearly expenses: grain Rs. 156-6-6, clothes Rs. 41, servant Rs. 36, house-rent Rs. 12, and officiating Bráhmaṇ Rs. 12: at ten times the amount Rs. 2,574-1-0; utensils Rs. 62-8-0, and pilgrimage to Benáres Rs. 300: total Rs. 2,936-9-0.

Káshináth contested the claim: stating that he had three other sons, and that they and the plaintiff's husband having quarrelled, they executed a *phárkhat* to him, received their respective shares of the family property, and since then lived separate; and that the plaintiff, on her husband's death, took possession of his property, and went to live in her father's house.

The Munsif allowed the claim to the extent of Rs. 735, namely, yearly expenses: food Rs. 50, clothes Rs. 15, rent Rs. 6: in all Rs.  $71 \times 10 = 710$ ; and Rs. 25 for cooking utensils.

Káshináth appealed to the District Court, urging the following amongst other grounds: (1) that the plaintiff was

1866.  
CHANDRA-  
BHA'GA'BA'I  
v.  
KA'SHINA'TH  
VITHAL.

of tender age, and lived separate from her husband's family; and that, by Hindú law, she could not sue for maintenance; (2) that, after the Munsif's decree in her favour, she, the plaintiff, received Rs. 2,400 from the Mámlatdár, as the amount of her mother's property, which had been entered *bevarshi*.\*

The Joint Judge laid down the issue to be: Has plaintiff any claim on defendant? and found as follows:—

“I am of opinion that she has no claim. The witnesses prove that the plaintiff's husband separated from his father, and, having separated, I do not think that the widow has any claim for maintenance on her father-in-law. It is, besides, evident that she has succeeded to a considerable sum of money: so that she is not in indigent circumstances, even supposing the separation from her late husband's family to have taken place]. The allegation of her being of tender age was not made in the lower court, and in the plaint it is stated that her age is eighteen. Decree reversed, with costs on respondent.”

Against this decree a special appeal was preferred on the grounds—(1) That the appellant having obtained her mother's money, does not deprive her of the right to maintenance against her deceased husband's family; (2) that, the mother's money having been all expended in the performance of her funeral ceremonies, she the widow, had no means of supporting herself; and (3) that the Joint Judge omitted to raise an issue as to her present circumstances.

*Mádhavráv Krishṇa Khárkar* and *Nánábhái Haridás* for the appellant.

*Dhirajlál Mathurádás* for the respondent.

PER CURIAM (NEWTON and WARDEN, JJ.):—The Court reverses the decree of the Joint Judge, and remands the case that he may determine the following points: (1) Are the widow's present circumstances such as to give her a claim to maintenance; (2) If she is possessed of any property, what portion of it is her *stridhan*.

\* वे वारशी, without heir or proprietor.

In accordance with previous decisions of this court, such part of the property in the plaintiff's hands (if any) as may be held to be her peculiar property, should not be taken into account, is in need of support.

1866.  
CHANDRA-  
BHA'GA'DA'I  
v.  
KA'SHINA'TH  
VITHAL.

A new decree to be passed : costs to follow final decision.

*Suit remanded.*

*Special Appeal No. 174 of 1865.*

1865.  
Nov. 25.

HARI MAHA'DA'JI JOSHI ..... *Appellant.*  
VASUDEV MORESHVAR JOSHI ..... *Respondent.*

*Hindú Law—Minority—Limitation—Reg. V. of 1827, Sec. VII., Cl. 3.  
—Act XIV. of 1859.*

Held that Reg. V. of 1827, <sup>5</sup>Sec. VII., Cl. 3, did not alter the Hindú law of minority ; but only defined the period of limitation in cases of minority generally ; and that the term “ minors ” used in Sec. 12 of Act XIV. of 1859 must be construed according to the law of the party in the case.

THIS was a special appeal from the decision of R. H. Pinhey, District Judge of the Konkan, in Appeal Suit No. 615 of 1864, reversing the decree of the Munsif of Pen in Original Suit No. 695 of 1864.

The facts fully appear in the following judgment, recorded by the District Judge, on the 25th of January 1865 :—

“ This action was instituted by the respondent, Hari, as the son and heir of Mahádáji Moreshvar Joshi, deceased, to recover from the appellant, Vásudev Moreshvar Joshí, his one-third share of half an inám field called khadkí or bhátí, in the village of Karambelí, in the Sánkshí Táluká of the Kulábá Sub-Collectorate, in the Konkan District, valued at Rs. 850, and three years' mesne profits, estimated at Rs. 140, on the ground that the field was originally the common property of three brothers, viz., his father, Mahádáji, the appellant, Vásudev, and Báلكrishna, and that Balkrishna had given him his one-third share of the half-field which he held, while the appellant refused to give him one-third share of the other half.