retaining the character of a son, was illegal and void: *Rangama* v. *Alchama* and others (*b*).

COUCH, C. J.:—It appears to me that the law, as stated in Strange's Manual and the cases before the Privy Council, permits the adoption of a sister's son, and that, when it is once done, it cannot be set aside. We must confirm the decree of the lower court with costs.

(*b*) 4 Moor. Ind. App. 1.

Aug. 23.

Special Appeal No. 334 *of* 1867.

ARJU'NA valad BHIVA' .....*Appellant.*
BHAVA'N valad NIMBA'JI' *et al.* .....*Respondents.*

Mirásdár—Rázinámá—Limitation—Act XIV. of 1859, *Sec.* 1., *Cl.* 12.

In a suit brought by a *mirásdár* to recover possession of *mirás* land, which his ancestor had resigned to Government, against a holder to whom Government had subsequently granted it, *it was held* that the statute of limitations commenced to run against the *mirásdár* and his heirs from the time the *mirási* was resigned, and not from the date of the subsequent grant of it by Government.

To the validity of a resignation of mirás land by a mirásdár to Government the consent of his heirs is not requisite.

THIS was a Special Appeal from the decision of R. H. Hunter, Acting Senior Assistant Judge of Puná, in Appeal Suit No. 245 of 1865, reversing the decree of the Munsif of Bársi.

The plaintiffs sued to recover possession of their ancestral mirás field (Survey No. 36), together with the well and trees thereon in the village of Arjiengád, in the Solapúr division of the Puná District. They alleged that they enjoyed the field till 1846, when, in consequence of their inability to cultivate it, they allowed it to remain waste, and the defendant took it up in 1853.

The defendant answered that the field was not the mirás of the plaintiffs, but that of one Ránu Máli; that plaintiff No. 2 held it as his tenant for some time and then threw it up; that one Mhátárá, grandfather of plaintiff No. 1, suc-

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ceeded, but that he resigned it in 1847, and that the land continued to be waste till 1853, when he, the defendant, took it up from Government, and had since been in possession.

The Munsif held that though the land in dispute had been the mirás of the plaintiffs, yet Mhátárá, the grandfather of plaintiff No. 1, resigned it in 1847, and that the plaintiffs having had no possession for a period of more than twelve years, their suit was barred by Sec. 1., Cl. 12, of the Limitation Act.

The Acting Senior Assistant Judge was of opinion that the field was originally the mirás of Ráṇú Máli; that in a division of family property it went to the plaintiffs' share; that Mhátárá resigned it in 1847, but without any authority to do so, because the plaintiffs, one of whom is his grandson, and the other his brother, had not consented to his act, such consent being in his opinion necessary for the alienation of ancestral property; that as long as Mhátárá was alive there was no adverse possession, nor indeed till 1853, when the defendant first took it up, and that, therefore, the cause of action arose in that year. He, therefore, reversed the Munsif's decree, and awarded the plaintiffs' claim.

The case was heard before WARDEN and GIBBS, JJ.

Shántárám Náráyaṇ for the appellant.

Dhirájlál Mathurádás for the respondents.

WARDEN, J.:—We consider that the court below was in error in considering that a mirásdár cannot give in a rázináma and resign land without the consent of his heirs; such has never been held to be law by this Court.

With regard to the point of limitation, we are of opinion that the lower appellate court was also in error in holding that the cause of action did not arise until the defendant took up the land. It has been ruled in Special Appeal No. 680 of 1865, decided by Mr. Justice Newton and Mr. Justice Gibbs on the 25th of April 1866, that where a mirásdár gives up his mirás land the cause of action for its recovery dates from the day of his giving it up. In this case the mirásdár

gave in his rázinámá in 1847, and counting twelve years from that time the present suit is barred. We, therefore, reverse the decree of the Acting Senior Assistant Judge, and confirm that of the Munsif.

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GIBBS, J., concurred.

Acting Senior Assistant Judge's decree reversed, and the Munsif's confirmed.

Special Appeal No. 307 of 1867.

Sept. 27.

VALLABHRA'M SHIVNA'RA'YAN .....*Appellant.*
BA'I HARIGANGA', by her guardian, DAYA'-SHANKAR KRISHNA'JI .....*Respondent.*

Hindú Law—Inheritance—Dumbness—Disqualification—Hindú Widow.

Dumbness, if from birth, is a cause of disherison in females as well as in males.

A Hindú widow born dumb is, according to the law prevailing on this side of India, incapable of inheriting from her husband.

Such widow is, however, entitled to her *stridhan*, and to maintenance out of the property of her deceased husband.

Case remanded to have the widow made a party to the suit, that it might be determined whether she was born dumb, and if so, that the amount of her *stridhan* and of her maintenance might be ascertained.

THIS was a Special Appeal from the decision of C. G. Kemball, District Judge of Súrat, confirming, in Appeal Suit No. 236 of 1866, the decision of the Munsif of Súrat.

The Special Appeal was heard before GIBBS and WARDEN, JJ.

Nánábhái Haridás for the appellant.

Shántárám Náráyan for the respondent.

The facts of the case appear from the judgment of the Court, delivered by

GIBBS, J. :—In this case the guardian of a female child sued to recover from the defendant certain jewels and other property, moveable and immoveable, which had come into