

The suit was brought to recover Rs. 260, the amount of the mesne profits of a piece of land decreed to the plaintiff.

Both the lower courts awarded the claim.

The special appeal was heard by MELVILL and KEMBALL, JJ.

Vishnu Ghanashám for the appellant.

Ghanashám Nilkant for the respondent.

PER CURIAM:—A suit for the recovery of mesne profits not amounting to Rs. 500 is one cognisable by a Court of Small Causes, and this special appeal is, therefore, dismissed, with costs on the appellant.

Appeal dismissed.

1871.
KAKAJI
SAKHARA'M
v.
GOVIND
GANESH
et al.

Miscellaneous Special Appeal No. 11 of 1871.

July 18.

GOPAL GOVIND *Appellant.*

GANESHDA'S TEJMAL *Respondent.*

Limitation—Execution—Act XIV. of 1859, Sec. 20.

An application for the execution of a decree, though made within three years from the date of a previous application, is barred, under Sec. 20 of Act XIV. of 1859, if the previous application were barred, even though execution was allowed to issue on such application.

THIS was a miscellaneous special appeal against the order of A. Bosanquet, Judge of the District of Ahmednagar, reversing the order of the First Class Subordinate Judge of Ahmednagar.

The applicant in 1860 obtained a decree in his favour. In 1867 he applied for its execution, and execution partially proceeded upon it, although no proceedings had been taken during the three years next preceding the application. In 1870 the applicant made his present application for further execution.

The court of first instance held the application to be barred; but the District Judge was of a different opinion. He said: "If the point at issue now were whether the application of 1867 was time-barred or not, it might be held to be

1871.
GOPA'L
GOVIND
v.
GANESHDA'S
TEJMAL.

time-barred; but that application has been enforced by a competent court, and cannot now be held to have been barred."

The special appeal was heard before MELVILL and KEMBALL, JJ.

Ghanashám Nilkant for the special appellant.

No one appeared for the opposite party.

PER CURIAM :—It appears that execution of the decree was barred in 1867, and the right to execute it cannot be revived by reason of the illegal proceedings which were taken in 1867, either in consequence of the inadvertence of the court, or the absence of opposition on the part of the judgment-debtor. The Court concurs in the view expressed by the Full Bench of the Calcutta Court in *Bisseshur Mullick v. Maharaja Mahatab Chunder Bahadoor (a)*.

Judge's order reversed.

(a) 10 Calc. W. Rep., F. B. R. 8.

Special Appeal No. 182 of 1871.

July 19.

RA'ZA'BA'I kom RANGOJI *Appellant.*
SADU bin BHAVA'NI *et al.* *Respondents.*

Maintenance—Hindú Widow.

Where the nearest relative of a Hindú widow sued for recovery of property in her possession, and the lower appellate court awarded the claim without fixing the amount of maintenance to be given to the widow :

The High Court remanded the suit in order that the amount of maintenance might be fixed, notwithstanding that the widow claimed maintenance in that court for the first time.

THIS was a special appeal from the decision of M. B. Baker, Acting Senior Assistant Judge of Solápur, in Appeal No. 141 of 1870, reversing the decree of the Subordinate Judge of Pandharpur.

The plaintiffs, as the heirs of the defendant's husband, sued to recover property in her possession, and to obtain damages for loss of crops.