

1872.  
August 27.

[APPELLATE CIVIL JURISDICTION.]

*Special Appeal No. 380 of 1871.*

KURIA' BIN HANMIA' ..... *Appellant.*  
GURURA'v and others ..... *Respondents.*

*Service Watan land—Successive life tenants—Cause of action—Practice.*

Where land belonging to a service Watan held on a tenure of successive life estates had passed out of the possession of the Watandárs:—*It was held* that a cause of action to recover such land accrued to each successive life tenant upon the death of his predecessor.

THIS was a special appeal from the decision, on remand, of C. F. H. Shaw, District Judge of Belgaum, in Appeal No. 278 of 1869, confirming the decree of the Subordinate Judge of Belgaum.

The suit was brought by Kuriá in 1864 for the purpose of recovering three survey numbers of land situate at Nundi-halli. The defendants pleaded the statute of limitation. The Subordinate Judge threw out the claim as barred, holding the defendants to have been in possession of the lands for upwards of twenty years. In appeal, the decree was confirmed on the same ground.

The petition of special appeal contained, among other objections, a ground which had never been taken in the previous pleadings:—viz., that the Lower Court omitted to decide when the statute of limitation commenced to run, and whether or not, the lands being service Watan lands, the cause of action to the appellant arose on the death of his father under the provisions of Regulation XVI. of 1827.

The appeal was argued before SARGENT, Acting C.J., and MELVILL, J., on the 27th August 1872.

*Bhairavnáth Mangesh* for the appellant.

*Dhirajlál Mathurádas*, *contra.*

PER CURIAM:—We think that as the land in dispute belongs to a service Watan and is held on a tenure of successive life estates, the right to which accrues on the death of each life tenant, the plaintiff had no cause of action until

the death of Hanmiá and Parshiá in 1860 or 1861. If this point had been raised when the case was last before the Court, a remand would have been unnecessary. It has now been taken, and we are of opinion that it is a valid objection to the decree of the District Judge, which is accordingly reversed, and the claim is allowed with costs on the defendants throughout.

1872.  
KURIA'  
bin  
HANMIA'  
v.  
GURUA'V.

*Decree reversed with costs.*

[APPELLATE CIVIL JURISDICTION.]

*Special Appeal No. 207 of 1872.*

Sept. 3.

RAMA'BA'I, wife of BHIIKA'JI BHA'SKAR ..... *Appellant.*

TRIMBAK GANESH DESA'I, and another ... *Respondents.*

*Hindu Law—Maintenance of deserted wife—Jurisdiction—Small Cause Court—Extraordinary Jurisdiction of High Court.*

Although the relations of the husband of a Hindu woman, deserted by him, may not be under a personal liability to support her, yet, if they have property of the husband in their hands, his wife is entitled to be maintained out of the husband's estate to the extent of the proceeds of one-third thereof.

Whether a suit to obtain such maintenance is cognizable by a Court of Small Causes. *Quere.*

Where there has been a manifest error of law, and to prevent manifest injustice, the High Court, in the exercise of its extraordinary jurisdiction, will remand a case to the Lower Court, though the value of the claim may be under Rs. 500, and the case may be one in which a special appeal is not allowed.

THIS was a special appeal from the decision of H. J. Parsons, Assistant Judge of Ratnágiri, reversing the decree of the Subordinate Judge of that place.

The plaintiff, Ramábái, brought the suit to recover maintenance and house-rent from the defendants, Trimbak and Krisnáji, respectively, her husband, Bhikáji's, cousin and cousin's son, alleging that they and her husband were members of an undivided family, and that her husband lived with them till six years before the time of suit filed, when