

1875.  
 VRA'NDA'-  
 VANDA'S  
 RAMDA'S  
 v.  
 YAMUNA'BA'I.

nance for her, either by directing an investment of a sufficient part of the estate in trust for that purpose, or by such other means as he may deem sufficient. The present plaintiff will, of course, be entitled immediately to the residue of the property, and on the death of the defendant to the portion set apart for the protection of her maintenance. Under the peculiar circumstances of the case we shall not award mesne profits or costs to the plaintiff. The parties must respectively bear their own costs of the suit and appeal. It being equitable that the plaintiff, in recovering from the defendant the property, should do so subject to the burden, placed upon it by Hindu law, of supporting the defendant, we have not thought it proper to subject her to the expenses of a separate suit for that purpose.

[APPELLATE CIVIL JURISDICTION.]

*Special Appeal No. 450 of 1874.*

July 1.

BHAVA'NI SADA'SHIV.....*Plaintiff and Appellant.*

BHAVA'NI MA'NA'JI .....*Defendant and Respondent.*

*Act XI. of 1843—Civil Court's jurisdiction—Patilki Watan—Collector.*

The plaintiff had two shares, and the defendant one in a *patilki watan*. In an action brought by the plaintiff to establish his right to officiate twice as often as the defendant,

*Held* that the plaintiff was not necessarily entitled to such right, though the fact of his holding two shares in the *watan* might be a reason for the Collector to exercise his discretion under Act XI. of 1843 (when it was in force) in favour of the plaintiff by assigning to him a longer period of management than to the defendant, in the event of the two sharers not agreeing as to the person to officiate.

*Quere* whether the Civil Courts have jurisdiction to entertain such a suit.

THIS was a special appeal from the decision of G. M. Macpherson, Senior Assistant Judge of Poona in charge of Solapur, affirming the decree of the Subordinate Judge of Pandharpur.

Bhaváni Sadáshiv brought this suit against Bhaváni Mánáji, and stated that he and the defendant were sharers in a certain *pátilli watan* consisting of three shares, of which the plaintiff held two and the defendant one, and that, therefore, the plaintiff was entitled to officiate as *pátíl* twice as often as the defendant did. The defence was that the action was not maintainable, and that the defendant and plaintiff were appointed by the revenue authorities to perform the work alternately each year. Both the lower Courts threw out the plaintiff's claim as not maintainable in a Civil Court.

1875.

---

BHAVANI  
SADASHIV  
v.  
BHAVANI  
MANAJI.

The special appeal was argued before WESTROPP, C.J., and LARPENT, J.

*Bahiravnáth Mangesh* for the appellant.

*Mánikshá Jahángirshá* for the respondent.

WESTROPP, C.J.:—Without deciding whether or not the Civil Courts have jurisdiction to entertain such a suit, as the present, we are of opinion that, even if it be assumed that the Civil Court has such a jurisdiction, the plaintiff has failed to show any authority for his proposition, that, because he is entitled to two shares out of three in the *watan* appendant to the office of *Pátíl*, he is, therefore, necessarily entitled to officiate twice as often as the owner of the third share in the *watan*. It might be a reason why the Collector, under Act XI. of 1843 (when it was law), if the two sharers could not agree as to the person to officiate, might have exercised his discretion in favour of the plaintiff by assigning to him a longer period of management than to the defendant; but we do not see that it was at all imperative on the Collector to have done so, or that the plaintiff has established any such right, either by custom or otherwise in himself as owner of two-thirds of the *watan*, to entitle him to a declaration from a Civil Court that he has a right to a double period of exercise of the office. We, therefore, affirm the decree with costs.

*Note.*—See, as to hereditary officers, Bombay Act III. of 1874.