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[482] APPELLATE CIVIL.

Before Sir Michael Roberts Westropp, Kt., Chief Justice, and Mr. Justice Birdwood.

PRANJIVAN DAYARAM AND OTHERS (*Original Defendants*), *Appellants v.* BAI REVA, DAUGHTER OF RAJARAM NARBHERAM, MINOR, BY HER GUARDIAN HER HUSBAND KASHIRAM FAKIR (*Original Plaintiff*), *Respondent.** [22nd March, 1881.]

Bhagdari *lands in the district of Broach—Special custom as to succession—Hindu and Mahomedans—Males perferred to females.*

The plaintiff, as heir of her father (a deceased Hindu *bhagdar*) sued the sons of sisters of her father's paternal uncle for possession of certain *bhagdari* lands situate in a village in the Broach Collectorate. The defendants pleaded that they were entitled to the property under a special custom regulating the succession to *bhagdari* lands in the Collectorate of Broach under which custom, on the death of a *bhagdari* whether Hindu or Mahomedan; without male issue, his nearest male relations (after the death of his widow) whether sprung through male or female relatives of the deceased *bhagdar* succeed to his *bhagdari* lands, to the exclusion of his daughter or sister.

Held—that the custom alleged was sufficiently proved, and that the defendants were entitled to retain possession of the *bhagdari* lands in question.

Per Curiam.—The custom alleged being, if not universal, at least general in the Broach Collectorate, it should, in the case of any particular village, at any rate on evidence being given of its continuance in other similar adjacent villages, if not in the particular village itself (though it would always be more satisfactory if this could be done), be held still to survive, unless and until the opposite party prove the adoption of some other custom, or of the ordinary rules of inheritance, in the particular village, or, failing such proof, the general prevalence of such rules or such opposing custom in other similar adjacent villages.

Quære—whether males sprung of male relatives of a deceased *bhagdar* have priority over males sprung of female relatives of the same.

Quære—whether a daughter or sister of a deceased *bhagdar* is wholly excluded, by the custom, from the line of inheritance, or would on failure of male relations, succeed to the *bhagdari* lands.

Bai Kheda v. *Dasu Sale* (1) referred to.

Colonel Monier Williams' "Memoir of the Zillah of Baroche" referred to and commented on.

[R., 12 Bom. L.R. 573=7 Ind. Cas. 659 (660).]

THIS was an appeal from the decision of Rav Bahadur Mangeshrav Balvant, First Class Subordinate Judge of Surat, in original suit No. 893 of 1875.

[483] The plaintiff, Bai Reva, sued for possession of certain immoveable property with mesne profits, as the heir of her father, Rajaram, who died in 1865. The property chiefly consisted of *inam*, *khata*, and *bhagdari* land situate in a village in the Collectorate of Broach. The following are, shortly, the facts of the case :—

One Raghunath, a Brahmin by caste, had two sons, Narbheram and Haribhai; and two daughters, Bai Kesar and Bai Kapur. Narbheram died in 1863, leaving a son named Rajaram and his brother, Haribhai. Rajaram died in 1865, leaving a daughter (the plaintiff, Bai Reva) as well as his uncle, Haribhai, him surviving. Rajaram owned immoveable property, chiefly consisting of *inam*, *khata*, and *bhagdari* lands situate in the village of

* Appeal No. 3 of 1881.

(1) 5 B.H.C.R.A.C.J. 123.

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Saen, in the district of Broach. On Rajaram's death, his uncle, Haribhai, obtained possession of his (Rajaram's) *bhagdari* lands, and was recognized as *bhagdar* by the Revenue authorities. The same authorities recognized the plaintiff's right to her father's other lands. On the death of Haribhai in 1869, his widow, Bai Amba succeeded to the *bhagdari* lands and sold them to Pranjivan and Harishankar (defendants 1 and 2), sons of Bai Kapur, and Mancharam (defendant No. 4), son of Bai Kesar by Vallabh (defendant No. 3). Bai Amba died in 1871. In 1872, defendants 1, 2 and 4 (Pranjivan, Harishankar and Mancharam) mortgaged the *bhagdari* and other lands, the property in dispute, to defendants 5, 6 and 7, who were in possession of them at the date of the institution of the suit. The plaintiff sued in *forma pauperis* and, being a minor, was represented by her husband, Kashiram, as her guardian.

Defendants 1, 2 and 4, pleaded, regarding the *bhagdari* lands in dispute, that they were entitled to them by virtue of their purchase, and under a special custom prevailing in the district of Broach. (The other allegations are immaterial.) Defendant No. 3 answered that he had no claim to the property in dispute. The plea of defendants 5, 6 and 7 was that they were mortgagees, and were willing to give up the mortgaged property on receiving their money.

The Subordinate Judge found, on the evidence, that Rajaram and his uncle, Haribhai, were divided in estate, and that the [484] custom relied upon by the defendants was not proved. He, therefore, held the plaintiff entitled to the immoveable property claimed by her, as heir of her father, according to the general principles of the Hindu law of inheritance. The following are his remarks on the question of the custom, and his reasons for awarding the plaintiff's claim to the immoveable property in dispute :—

"In Moniër Williams' Memoirs on the Zilla of Broach (put in in this suit) it is stated that if a *bhagdar* die without male issue, his nearest male relative succeeds in preference to daughters and sisters. But the extract which is recorded in this case, does not clearly show that the particular custom therein recited equally applies to Mahomedan and Hindu *bhagdars*, or to either of them; and, in the absence of any such clear specification, I am, on the evidence recorded in this case, rather inclined to hold that the custom referred to has reference only to the Mahomedan *bhagdars*, and not to Hindus. I decided a similar case five days ago, wherein the parties were Mahomedans; and in that case, on the evidence recorded, I held that among the Mahomedan *bhagdars* such a custom existed; whereas, on the evidence recorded in this case, I find that such is not the case among Hindu *bhagdars*. * * * * * The decision of our High Court relied on (5 Bom. H.C. Rep. A. C. J. 123), also refers to Mahomedan *bhagdars*, and not to Hindus, and hence I hold that that decision is inapplicable to this case. The evidence, therefore, afforded by Colonel Monier Williams' work is not so conclusive as to justify me in holding the alleged custom proved. Such being the case, the deceased, Haribhai, had no right to assume the management of the estate, and I consider him to be a mere trespasser; and his widow, Amba, therefore, had no right whatever to dispose of the property in the manner she did; and the alienation made by her to defendants 1, 2 and 4 becomes null and void. Hence I need not consider whether she had or had not any legal necessity for making the alienation to defendants 1, 2 and 4; and the mortgage-lien, created by these defendants in favour of defendants 5, 6,

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and 7, consequently loses all its force, as one created by persons having no legal right over the mortgaged property."

Defendants 1, 2 and 4 appealed to the High Court.

[485] The appeal was argued on the question of the claim to the *bhagdari* lands only.

K. T. Telang (with him *Nagindas Tulsidas*), for the appellants.

Gokaldas Kahandas, for the respondent.

JUDGMENT.

The following is the judgment of the Court delivered by

BIRDWOOD, J.—In this case the Subordinate Judge awarded to the plaintiff, Bai Reva, as daughter of Rajaram—the son of Narbheram, the son of Raghunath—possession of certain immoveable property in the village of Sayen (Saen), in the Broach Collectorate, with mesne profits for the period during which she had been, as he held, wrongfully excluded from its possession by the defendants No. 1, Pranjivan, No. 2, Harishanker, and No. 4, Mancharam, who had taken possession on the death of Amba in Samvat 1927 (A.D. 1871). Amba was the widow of Haribhai, the paternal uncle of the plaintiff's father, Rajaram. The present suit was commenced in A. D. 1875. The property included certain *bhag* lands which alone form the matter in contest in this appeal. Defendants Nos. 1, 2, and 4, the appellants in this Court, said that they had acquired those lands by purchase from Amba, the widow of Haribhai. For the defendants Nos. 1 and 2—as sons of Haribhai's sister, Kapur (daughter of Raghunath)—and for the defendant No. 4—as son of Haribhai's sister, Keshar (also a daughter of Raghunath)—a preferable title to that of Reva was claimed in argument before this Court and the Court below. The defendants Nos. 5, 6, and 7 are the mortgagees of defendants Nos. 1, 2, and 4. Defendant No. 3 claimed no right to the property, and said that he had been unnecessarily made a party to the suit. On the death of Rajaram, his uncle, Haribhai, had obtained possession of the *bhag* of Rajaram, and was recognized by the Revenue authorities as *bhagdar*. But the same authorities recognized the title of Rajaram's daughter to the lands of Rajaram which were not *bhagdari*. Amba, the widow of Haribhai, succeeded to the *bhagdari* land on the death of Haribhai in Samvat 1925.

It does not appear to us to be necessary to decide whether or not Amba had power to sell the *bhagdari* land to the defendants 1, 2, and 4. Assuming that, as a Hindu widow, she could not do so, except for special reasons not here existing, we must direct [486] our attention to a special custom alleged to exist in *bhagdari* villages in the Broach Collectorate; under which custom—which is said, and indeed appears to admit the succession of the widow of a *bhagdar* who dies without leaving issue male—the daughter or sister of such a *bhagdar* is excluded from the succession (on the death of the *bhagdar's* widow, if he leaves a widow), by the nearest male relations. The plaintiff relied on the ordinary Hindu law of inheritance—her father Rajaram having been separate in estate from his uncle, Haribai.

The Subordinate Judge found that the alleged custom for the exclusion of a daughter or sister was not proved in the case of *bhagdars* who are Hindus, though he had found it proved in another suit in which the parties were Mahomedans. The appeal has been argued only with reference to this custom, which on our appreciation of the evidence we find to be sufficiently established as against the plaintiff.

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The Subordinate Judge refers in his judgment to an extract from Colonel Monier Williams' "Memoir of the Zilla of Baroche," filed as an exhibit in this suit in which the custom is thus described: "Daughters do not inherit the lands. If the *bhagdar* dies without a son, the nephews or nearest male relations take the lands after the death of the widow." The Subordinate Judge did not consider the authority of this passage as conclusive in the present case, because it was not clear to him that it had any application to Hindu *bhagdars*. He also held that the decision of the High Court in *Bai Kheda* v. *Dasu Sale* (1), where male first cousins of the deceased *bhagdar* were preferred to his sister, was inapplicable, as that was a case of Mahomedan *bhagdars*. The report of the arguments in that case shows that the case described by Colonel Monier Williams was that "of a Hindu *bhag*"; and on referring to the memoir itself, page 32, we find that the *bhagdar*, Bhowandass Bhooda—regarding whose *bhag* in the village of Turalsa in the Broach District, certain particulars are given—was a Hindu of the caste of Lewa Kunbis, and not a Mahomedan. Of course, any information obtained by Colonel Monier Williams regarding the village of Turalsa would not necessarily be conclusive as to the rights of the parties in the present case. But [487] his work has always been regarded as of high authority, and he says that the particulars given by him "will assist in forming a more distinct idea of the (*bhagdar*) system in general." He evidently deemed the village of Turalsa to be a fair sample of the *bhagdari* villages of the Broach Zilla in general, and would seem to have regarded the custom as to succession (described by him) as usually adopted in all *bhagdari* villages in that zilla. And the custom has been recognized, not only in the reported case already referred to, but in several decisions also of the District Court of Surat.

Of these one was *Bai Dala and another* v. *Laldas Ishver and another* (2)—a case between Hindus, decided in 1876, which arose in Kimoj, in the Jambusar Taluka of the Zilla of Broach. The *propositus* there—Haribhai—was succeeded in his *bhagdari* and other lands by his widow, Tezbai: and, on her death, a contest as to the right to a certificate of heirship having arisen between her daughters by Haribhai, Dela, and Ladbai, on the one side, and Haribhai's male first cousins (father's brother's sons) Laldas Ishvar and Jeysing Ishvar, on the other, the Assistant Judge Mr. Aston, recommended the grant of a certificate of heirship to Haribhai's daughters limited to such of Haribhai's lands as were not *bhagdari*. The District Judge so far acted on this recommendation, but also granted a certificate of heirship in respect of the *bhagdari* lands to Haribhai's male first cousins.

In 1868 the case of *Ranchod Lakshmidas and others* v. *Kalidas Lakshmidas and others* (3) was tried in appeal from the Munsif of Jambusar by the Assistant Judge at Broach, Mr. Philpotts. Besides other matters in dispute it appeared that certain *bhagdari* property situate at Kavi, in the Jambusar Taluka of the Zilla of Broach, had been held, during her widowhood, by Bai Ruliat in right of her deceased husband, a Hindu. The suit was brought by male cousins of the sixth or seventh degree of her husband to recover that *bhagdari* land from Kalidas Lakshmidas, who, as son of the daughter of Bai Ruliat and her husband, and as devisee under the will of Bai Ruliat, claimed to hold that land. The Munsif had made a decree for the defendant, Kalidas

(1) 5 B.H.C.R.A.C.J. 123.
(2) Application 53 of 1875 under Regulation VIII of 1827.
(3) Appeal No. 12 of 1866.

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[488] Lakshmidas; but Mr. Phillpotts, after a detailed discussion of the evidence and of the authorities, reversed that decree, and held that the plaintiffs (the male cousins of Bai Ruliat's husband) were, according to the custom of the Zilla of Broach, to be preferred to a daughter or daughter's son, and that Bai Ruliat—being a Hindu widow—had not any power to devise her deceased husband's property. He referred to a decision of Mr. Hebbert at Broach in 1858 (No. 221 of 1858) preferring the male relatives of the deceased *propositus;* and to Special Appeal 1636 of 1863 as supporting his view; and to the Mahomedan case reported as *Bai Kheda* v. *Dasu Sale* (1), where male first cousins of the deceased *bhagdar* were by the High Court (2), preferred to his sister, in affirmance of the decree of the Assistant Judge. Kalidas Lakshmidas made a special appeal (No. 168 of 1869) to the High Court against Mr. Phillpotts' decision, but that Court (3) on the 22nd July, 1869, affirmed the decree of Mr. Phillpotts. Both in that case and in *Bai Kheda* v. *Dasu Sale* Mr. Justice Warden was one of the presiding Judges in the High Court when those cases were decided there on appeal. He had the advantage of having been a District Judge in Gujarat for many years, and must have been well acquianted with the customs of Broach in *bhagdari* tenure. So recently as the 11th September, 1879, the Assistant Judge in Appeal No. 110 of 1877, *Bai Fula and another* v. *Umal Amiji Sale*, affirmed a decree of the Subordinate Judge of Broach, declaring a deed of gift of *bhagdari* land, by the widow of a deceased Mahomedan *bhagdar* to his daughter's son, to be void (from such time, we presume, as the widow might die) as against the brother of the deceased *bhagdar*, which decision does not seem to have been appealed against to the High Court.

Such decisions tend strongly to show what the Civil Courts have understood to be the law in the District of Broach, where the lands in dispute in the present case are situated. In one case, however, which came before the High Court in appeal (Special Appeal No. 334 of 1872) (4), the custom was alleged, but sufficient evidence to prove it does not seem to have been adduced.

[489] In the case of *Bai Kheda* v. *Dasu Sale* (1) reference is also made to another case in which the evidence given was insufficient to support the custom. It seems advisable, therefore, that in every case in which the custom is relied on, the parties should be prepared with evidence regarding it, for it is possible that it may not have been adopted in all the *bhagdari* villages in the district of Broach. Whether or not it is universal there, we do not decide; but the impression left on our minds by the evidence in this case and by the authorities is that the custom is at least generally prevalent in that district. In the present case, evidence has been adduced both in support of and in disproof of it, in dealing with which we cannot disregard either the result of Colonel Monier Williams' enquiries, conducted apparently about sixty years ago, or the distinct recognition of the custom in several judicial decisions in recent years (although in two cases the custom was held not to be proved), or the special recognition of such a custom by the revenue authorities in 1867 in respect of the lands in dispute in the present case, for (as already mentioned) it appears that, on the death of Rajaram, a *kabulayat* was taken for the *bhag* land from his uncle Haribhai, while for the other land a *kabulayat*

(1) 5 B.H.C.R. A.C. J. 123. (2) Tucker and Warden, JJ.
(3) Warden and Lloyd, JJ.
(4) Printed Judgments of 1873, June 10th, No. 63.

was taken on behalf of plaintiff, who was, as she still is, a minor. Of course, the order of the revenue authorities, sanctioning this proceeding, does not bind the plaintiff; but it shows what their opinion as to the ordinary course of descent of *bhagdari* lands in the village of Sayen and district of Broach was at the time. The Subordinate Judge has distinguished between Hindu and Mahomedan *bhagdars*, but there is apparently nothing in evidence sufficient to warrant the acceptance of any such distinction. And it is to be noted that in the case reported in 5 Bombay High Court Reports, 123, A. C. J., the custom was upheld among Mahomedans partly on the authority of Colonel Monier Williams' "Memoir on the Zilla of Baroche," which refers specially to a case of Lewa Kunbi *bhagdars*. It has been argued before us that, in the present case (in which the parties are Brahmins) the defendants rely on instances of the exclusion of daughters which have occurred among Koli *bhagdars*, and that these instances are of no weight, because it has been sworn by [490] one witness that among Kolis the daughter never succeeds to any property. But no such distinction between Kolis and Hindus of other castes seems to have been known to Colonel Monier Williams. And the *bhagdars* described by him were not Kolis, but, as already stated, Kunbis. Having regard, therefore, to the foregoing considerations, we should be inclined to recognize the custom in any *bhagdari* village in the Broach Collectorate whenever the party relying on it was able to give specific instances of its continuance in other similar adjacent villages, if not in the particular village itself, though it would always be more satisfactory if he could do this, and whenever the opposite party could not or did not prove the adoption of some other custom or of the ordinary rules of inheritance in the particular village, or, failing such proof, the general prevalence of such rules or such opposing custom in other similar adjacent villages. Now, in the present case, the defendants have shown that the alleged custom, which was a custom sixty years ago in the Broach District, still survives in many *bhagdari* villages. This evidence is met, but, as we think, inadequately met, by proof of certain instances in which the daughter has excluded the male relations. Several of the cases relied on by the plaintiff were cases of gifts to the daughter during the lifetime of the father, or of devise by will—which gift or devise if he were separated and without male issue, he might make—and such cases would rather tend to show that there may have been a custom, excluding the daughter, the operation of which it was sought by the gift or will to exclude. In several of the cases given in evidence for the plaintiff, a daughter's son, or sister's son, and not the daughter or sister herself, succeeded the *bhagdar* or his widow. This, no doubt, leads to the inference that the male relatives, who would be preferred to the daughter or sister, need not necessarily claim through male relatives of the deceased *bhagdar*, but may be male relatives sprung from his female relatives, and, by preference of sex, excluding the females through whom they claim—males being deemed more suitable sharers in the management of and responsibility for the *bhag* than females. The only instance of succession (other than that of Haribhai Raghunath) given in connection with the village of Sayen seems really to have been of this kind. [491] After the death of Neermul (the widow of Harjivan, a *bhagdar*) his daughter's son succeeded him in preference to his male cousins. That case occurred since the present suit was instituted, or about the time of its institution. Such a case is no authority for the succession of a daughter herself in Sayen.

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The learned pleader for the respondent, when asked by this Court whether he could refer us to any instances of the preference of a daughter or sister to male relatives of a deceased *bhagdar*, which were independent of devise or deed of gift, specially mentioned four cases to us: (1) that of Bai Ganga; (2) that of Kurnaram; (3) that of Dulabh, and (4) that of Anandram. The witness that mentions Bai Ganga's case is unable to say whether the *bhag* was entered in the Government books at the desire of her father in Bai Ganga's name during her father's lifetime or not. If it were so entered under such circumstances, she would have come in by gift and not by inheritance. The same witness does not know "the practice prevalent in *bhagdari* villages," but says that, according to the custom of his caste (he is a Sajodra Brahmin) "if the daughter of a deceased *bhagdar* lays no claim to his property the cousins inherit." He did not know of any contest between a daughter and a male cousin. The case of succession given by him (that of Bai Ganga) occurred in Cholad. Another witness mentions an instance of the exclusion from succession to a *bhag* of the daughter of a Sajodra Brahmin, which occurred at Ashta, in the taluka of Anklesvar in the Broach District, and of the preference of a male first cousin of her father. Another witness speaks of that case as one in which a deed of gift by the father, in favour of the daughter, was set aside. Kurnaram's case occurred in Kalam. Bai Manek succeeded to the *bhag* of her father, Kurnaram, whose cousins of the fourth or fifth degree were living when he died. During Manek's lifetime the land was transferred to the name of her husband, who bequeathed it to his daughters. Manek apparently survived her husband, and on her death the property was taken by her daughters' sons. The witness who speaks to that case says: "I know of no instance in which a *bhagdar* died without making a will, and in which in that case a daughter or niece inherited a *bhag* in exclusion of cousins." [492] In Dulabh's case the *bhag* was, on Dulabh's death, entered in the Government books in the name of his daughter Jumna. In his cross-examination the witness who speaks to that case says: "Jumna being a minor, the *bhag* was somehow entered in her name by the *mehta*; but the fact being made known to me, I applied, and for the last two years my name has been entered, and the whole *bhag* is in my possession." So he has ousted his niece, the daughter of the deceased *bhagdar*, Dulabh. The fourth case, *viz.*, the succession of Jumna, the daughter of Anandram Hurdev, to his *bhag* in preference to his uncle, relied on by respondent, occurred in Kothia, and seems to have been, in its inception, distinctly opposed to the alleged custom; but another witness who, in his cross-examination, also mentioned it admitted that the uncle has since obtained the *bhag* from her. It cannot be said that the evidence, as a whole adduced by the plaintiff has successfully encountered the evidence given, and precedents quoted, for the defence. On the contrary, a part of it, *viz.*, such as shows the succession of daughters' sons or sisters' sons when their mothers were living or succession of daughters or sisters by virtue of deeds of gift or wills, is more consonant with the custom of exclusion of such females in favour of male relatives, than of the prevalence of the ordinary Hindu law. We think that the result of the whole body of evidence and precedents, adduced in this case, favours the exclusion of daughters where male relatives of the deceased *bhagdar* are forthcoming. We use the term "male relatives" in the larger sense,—*i.e.*, as including, not only male relatives claiming through males, but also male relatives claiming through females, which latter description of male

relatives, comprises the defendants Nos. 1, 2 and 4. It is unnecessary for us to enter into any discussion of the rival pretensions of male relatives of the two above-named species, as in this case there seem to be only male relatives claiming through females. We are not to be understood as holding that a daughter or sister is wholly excluded by the custom from the line of inheritance,—*i.e.*, that, if there were not any male relatives of the deceased *bhagdar*, his *bhag* would escheat to the Crown rather than descend upon his daughter or sister. We think that the plaintiff, Bai Reva, under the circumstances existing in this case, [493] has failed to establish her right to the *bhagdari* land in dispute, or to any mesne profits in respect of such land. We vary the Subordinate Judge's decree by rejecting so much of the claim as has reference to the *bhagdari* land and its profits, and by reducing the costs awarded by the said decree in proportion to so much of the plaintiff's claim as relates to the *bhagdari* lands (as to which she has failed in this Court) and also as relates to the moveable property (as to which she has failed in the Court below),—*i.e.*, she can only have her costs of the suit in proportion to so much of her claim as relates to the *inam* lands and the profits thereof. The appellants are to recover their costs of this appeal from the respondent.

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APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Acting Chief Justice, and Mr. Justice M. Melvill.

DUGAPPA SHETI, GRANDSON OF KRISHNAPA SHETI (*Original Defendant*), *Appellant* v. VENKATRAMNAYA, SON AND HEIR OF DECEASED MAHABLESHVARAYA BIN NADKARNI VENKATESHAYA AND OTHERS (*Original Plaintiffs*), *Respondents*.*

[19th January, 1880.]

Undivided Hindu family—Ancestral estate—Attachment and sale of the interest of one of several co-parceners—Possession.

A obtained a decree in a suit against B, and executed it by the sale of certain plots of land which B alleged belonged to him—A himself becoming the purchaser thereof. A entered into possession of the plots of land under his purchase, and remained in possession thereof for a considerable time. As a matter of fact, the plots of land belonged—part absolutely and part as to mortgagees in possession—not to B solely, but jointly to him and his father C and others, the members of an undivided Hindu family.

A suit having been brought by C to recover possession of the said plots of land from A, and for mesne profits, and for payment over of a sum of Rs. 800 paid to A by the mortgagor of the mortgaged property in redemption of his mortgage.

Held—that A was entitled to stand in B's place, and to retain possession in respect of B's share in the said land, but no further; and that he held the mesne profits, and the said sum of Rs. 800. as trustee for the other members of the said undivided family to the extent of their shares in the family property.

[494] *Babaji Lakshman* v. *Vasudev Vinayak* (1) and *Kallapa Girmallappa* v. *Venkatesh Vinayak* (2) followed.

[F., 26 B. 141=3 Bom. L.R. 598; R., 10 B. 363 (366); 8 Bom. L.R. 99; 1 S.L.R. 133; 2 S.L.R. 43 (50); Expl. & D., 5 B. 499; D., 11 C.L.J. 61=14 C.W.N. 298=5 Ind. Cas. 298.]

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* Second Appeal No. 373 of 1879.

(1) 1 B. 95. (2) 2 B. 676.