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to derive from it all the benefit which he might obtain from a decree in ejectment. If this were permitted, a plaintiff would never bring a suit for possession; but, having obtained a cheap declaratory decree, he would proceed to worry the defendant by constant suits for mesne profits in the Small Cause Court, until the defendant would throw up the property, and the plaintiff would obtain, to the detriment of the public revenue, all the advantages which he could derive from a suit in ejectment. Assuming, (though it is very doubtful), that the present action is maintainable in any Court without a previous decree, or simultaneous claim for possession of the property, for trespass on which mesne profits are asked, we feel no doubt that it is not maintainable in a Court of small Causes, which cannot be used as a medium for ejecting, by indirect means, a person in possession of immoveable property.

Rule made absolute with costs.

APPELLATE CIVIL.

Before Sir M. R. Westroop, Kt., Chief Justice, and Mr. Justice Birdwood.

RUNGO BUJA'JI, PLAINTIFF, v. BA'BA'JI AND OTHERS, DEFENDANTS.*

 March 23.

Limitation Act No. XV of 1877, Section 25—Native date—Month.

The plaintiff sued on a note, bearing a native date, Ashad Vadya 13th, Shaké 1799 (7th August, 1877), and containing a stipulation for payment of the money to this effect:—"In the month of Kártik, Shaké 1799,—that is to say, in four months,—we shall pay in full the principal and interest." The plaint was filed on the 6th December, 1880, in the Court of small Causes at Poona. The Judge was of opinion that the claim was barred. On his referring the case to the High Court for its decision,

Held, that the period of four months was, for the purpose of ascertaining whether the suit was barred by lapse of time, to be calculated according to the Gregorian Calendar, under section 25 of the Limitation Act XV. of 1877, and that the claim was not barred.

Ráq Bahádúr Madan Shrikrishnáji, Judge of the Small Cause Court at Poona, referred the following case, with his opinion thereon, for the decision of the High Court under section 617 of Act X of 1877:—

"This is a suit to recover Rs. 60 on a note dated Ashad Vadya

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13th, Shaké 1799, corresponding with 7th August, 1877; and the question for decision is, whether the suit is barred by the law of limitation.

“ I am of opinion that it is barred.

“ The question hinges upon the construction of the clause fixing the time for payment. It runs as follows :—‘ In the month of Kártik, Shaké aforesaid (1799)—that is to say in four months—we shall pay in full the principal and interest; herein we shall not fail.’ By this stipulation I understand that the defendants meant to pay the amount of the note with interest in the month of Kartik, Shaké 1799, and that the mention of the words ‘ four months’ after the word ‘ Kartik’ was made to fix the date on which the payment was to be made. The note thus became payable on Kartik Vadya 13th, Shaké 1799, corresponding with 2nd December, 1877, whereas this suit was filed on 6th December, 1880.

“ It is contended on behalf of the plaintiff that the time fixed for payment is four months from the date of the note, and that the four months should be calculated according to the Gregorian Calendar, as provided in section 25 of the Limitation Act.

“ To me it seems that section 25 is not applicable to the present case, because, according to the Gregorian Calendar, the four months expire on 7th December, 1877, corresponding with Margashirsh Shudha 3rd, while the note is expressly made payable in Kartik, the last day whereof corresponds with 4th December, 1877; and if the four-months’ time be calculated according to the Gregorian Calendar, the word Kartik will have no effect at all. The only construction that can be put on the clause—‘ in Kartik, Shaké 1799; that is to say, in four months’—is within the time of four months which would expire in the month of Kartik, Shaké 1799.

“ Under this view of the case I have dismissed the suit, subject to the decision of the Honourable the High Court.”

There was no appearance of parties in the High Court.

The following is the judgment of the Court :—

WESTROFF, C.J.—The Court thinks that the true construction of the note is that the maker was to pay within four, lunar

months from the date, which period would expire in the month of Kartik. Four months, according to the Gregorian Calendar, would extend beyond that month, and expire in Margashirsh. But the legislation in section 25 of Act XV of 1877 is absolute. There is no saving of cases in which it appears on the face of the contract that lunar months were intended by the parties. This Court must, therefore, be guided by section 25, and hold the period of four months to be, for the purpose of ascertaining whether or not the suit is barred by lapse of time, four months according to the Gregorian Calendar, which period expired on the 7th December, 1880. The plaint having been presented on the 6th December, 1880, was in due time, and this suit is not barred. The Court, therefore, reverses the decree of the learned Judge of Small Cause Court of Poona, and directs the suit to be reinstated.

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*Decree reversed.*NOTE.—See *Nilkantli v. Dattatraya*, I. L. R., 4 Bom. 103.

 APPELLATE CIVIL.

Before Mr. Justice Melvill and Mr. Justice Kemball.

BULA'KHIDA'S (ORIGINAL PLAINTIFF), APPELLANT, *v.* KESHAVLAL AND OTHERS (ORIGINAL DEFENDANTS), RESPONDENTS.*

December 6.

Hindu law—Inheritance—Daughter's right of survivorship—Joint estate—Widows—Difference in the law of Bombay and the other Presidencies.

In those parts of the Presidency of Bombay where the doctrines of the Mayukh prevail, daughters take not only absolute but several estates, and, consequently, when without any issue, may dispose of such property during life, or may devise it by will.

The rule is different in Bengal and Madras, where daughters take by inheritance a joint estate with rights of survivorship: *Aumirtolall Bose v. Rajoneekant Mitter* (1); *Kattama Nachiar v. Dorasinga Tevar* (2).

Result of the application of the Bombay rule to widows stated.

THIS was a second appeal against the decision of A. H. Unwin, Assistant Judge of Ahmedabad, confirming the decree of the Subordinate Judge of Ahmedabad, Rao Bahadur Mukundrai Manirai.

One Aditram, a separated Hindu Grihastha, died in 1824, leaving a widow and two daughters, Kashi and Ganga. The

* Second Appeal, No. 226 of 1881.

(1) L. R. 2 Ind, Ap. 113.

(2) 6 Mad. H. C. Rep. 310.