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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.

Decree reversed.

NOTE.—See *Nilkanth* 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.

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widow died in 1865, and was in possession of her husband's property till her death, since which event the possession continued with Ganga alone. The other daughter, Kashi, died in 1868, leaving her step-son, the plaintiff Bulakhidas, as her heir and also devisee of her property by a will. Ganga died in 1869, leaving the defendants as her heirs in possession of the entire property formerly owned by her father, Aditram.

Under these circumstances the plaintiff claimed to recover half a share of that property,—first as heir of his step-mother, Kashi, and, secondly, as the devisee under her will. The defendants (*inter alia*) contended that Kashi having predeceased Ganga, the latter became the sole owner by survivorship, and that, consequently, the entire property was theirs to the total exclusion of the plaintiff. Both the lower Courts allowed the defendant's contention, and rejected the claim of the plaintiff, who appealed to the High Court.

Nanabhai Haridas, Government Pleader, for the appellant.—According to the Hindu law which obtains in the Presidency of Bombay and especially in Gujarat, there is no right of survivorship between daughters: Mayukh, c. IV, sec. 8, para. 1, and sec. 8, para. 10; West and Buhler (2nd ed.) pp. 50, 155, 292, note (*f*), 475, note (*c*).

Manekshah Jehangirshah for the respondents.—The case of daughters is analogous to that of co-widows, who take a joint estate for life, with rights of equal beneficial enjoyment and of survivorship: *Gajapathi Nilamani* v. *Gajapathi Radhamani* [1]. [KEMBALL, J.—In the case of *Aumirtolall Bose* v. *Rajoneekant Mitter* [2] the Privy Council held that where two daughters had already succeeded jointly by inheritance to their father's estate, and at the death of one of them the survivor was childless widow, the latter would nevertheless take by survivorship the whole estate. The High Court at Madras seems to have held similarly: *Kattama Nachiar* v. *Dorasinga Tevar* [3]; Mayne's Hindu Law (2nd ed.), pp. 501, sec. 475.] These cases seem to be conclusively in the defendant's favour.

(1) I. L. R. 1 Mad. 290. (2) L. R. 2 Ind. Ap. 113.

(3) 6 Mad. H. C. Rep. 310.

Nanabhai Haridas in reply.—The cases cited by the other side are not Bombay cases. In Bombay the principal authority of Hindu law is undoubtedly the Mitakshara, and, according to it, the daughters take a limited estate. The case of sons or co-widows is different. They generally remain in the family or near one another ; but, as regards daughters, the presumption is that they would be widely separated and placed in different circumstances. To apply the rule of survivorship to them would be inconvenient.

The judgment of the Court was delivered by

MELVILL, J.—The decision of the Acting Assistant Judge—that daughters take by inheritance a joint estate, with rights of survivorship—is in accordance with the law as laid down in Madras and Bengal : *Aumirtolall Bose* v. *Rajoneekant Mitter*(1) ; *Kattama Nachiar* v. *Dorasinga Tevar*(2). The only question which we have to consider is whether the rule is the same on this side of India. In this Presidency, and especially in Gujarat, from whence this case comes, the Vyavahara Mayukha is a principal authority ; and on the strength of chapter iv, sec. 8, para. 10 of the Mayukha it has become the established rule in this Presidency that daughters take by inheritance an absolute estate and not a limited interest, as they would under the Mitakshara : *Mutta Vaduganadha Tevar* v. *Dorasinga Tevar*(3). The concluding words of the same paragraph, viz., " if there be more daughters than one, they are to divide [the estate], and take [each a share]" seem to us sufficient authority for holding that, where the doctrines of the Mayukha prevail, daughters take, not only absolute, but several estates, and, consequently, when not having any issue, may dispose of such property during life, or may devise it by will : *Haribhat* v. *Damodarbhat*(4). This is the view which appears to have generally been taken by the shastris, and to have commended itself to the learned authors of West and Bühler's Digest(5) ; and it is certainly a far more convenient rule than that of regarding as joint tenants two or more daughters who have married into different

(1) L. R. 2 Ind. App., 113.
(2) 6 Mad. H. C. Rep., 310.
(3) L. R. 8 Ind. App., 99.
(4) I. L. R., 3 Bom., 171.
(5) West and Buhler, pp. 50, 154, 155, 475, note (c).

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families. No doubt it involves the application of the same rule to widows, of whom, in the paragraph immediately preceding the one which we have cited, Nilakuntha says: "If there be more than one, they will divide the wealth, and take shares"; and such rule, when applied to widows, would not be in accordance with that which the Privy Council has held to prevail in Bengal and Madras: *Bhugwandeen Doobey* v. *Myna Baee* (1); *Gajapathi Nilamani* v. *Gajapathi Radhamani* (2). But, as regards the devolution of the estate of one of two widows, the result of the two rules would not, practically, be different. If the widows take a joint estate, the surviving widow takes the undivided share of the other widow by right of survivorship. If they take several estates, the surviving widow would take the divided share of the deceased widow by right of inheritance, as her husband's next heir.

We reverse the decree of the Acting Assistant Judge, and remand the case in order that it may be determined whether the suit is barred by limitation, and, if not, whether the plaintiff is entitled to succeed to Kashi's half share under Kashi's will, and, if not, whether he is her next heir.

Costs to follow the final decision.

Decree reversed.

(1) 11 Moore's Ind. App., 487. (2) I. L. R., I Mad., 290.

APPELLATE CIVIL.

Before Sir M. R. Westropp, Kt., Chief Justice, and Mr. Justice Melvill.

July 19.

SAYAD MAHOMED ALI (ORIGINAL DEFENDANT), APPELLANT, *v.* SAYAD GOBAR ALI (ORIGINAL PLAINTIFF), RESPONDENT.*

Mahomedan law—Wakf—Grant—Descent per stirpes—Grant in inám to grantee and his children, without restriction as to names, in order that they may pray for the perpetuity of Government.

A *sanad* of the Emperor Sháh Jehán, dated A. D. 1651-52, granted in *inám* to one Sayad Hasan the village of Dharoda and certain lands of another village in these terms:—"Let the whole village above mentioned, as well as the above-mentioned land, be hereby settled and conferred as above, manifestly and knowingly as a help for the means of subsistence for the children of the above-mentioned Sayad

* Second Appeal, No. 336 of 1880.