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and that by this document they have created, an interest by way of lease extending beyond one year.

I think, therefore, that the appeal must be allowed, the lower appellate Court's order must be set aside and the appeal must be remanded to the lower Court for decision according to law.

The appellant will have his costs of this appeal, but other costs will be costs in the cause.

HEATON, J. :—I concur.

Appeal allowed.

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CRIMINAL APPELLATE.

Before Mr. Justice Batchelor and Mr. Justice Heaton.

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EMPEROR *v.* KIKABHAI RANCHHODDAS AND CHHAGAN TRIBHOVAN.*

Bombay District Police Act (Bombay Act IV of 1890), section 61, clause (b)† *—Disregarding rule of the road—Driving a bicycle on a wrong side of the road—Vehicle—Bicycle.*

A bicycle is a vehicle within the meaning of the word as used in clause (*b*) of section 61 of the District Police Act (Bombay Act IV of 1890).

THESE were two appeals by the Government of Bombay against orders of acquittal passed by Ishvardas

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* Criminal Appeals Nos. 490 and 491 of 1916.

† The material portion of the section runs as follows :—

61. In any local area to which Government by notification from time to time extends this section or any part thereof, whoever contrary thereto—

* * * * *

(*b*) drives a vehicle of any description along a street and does not keep (except in cases of actual necessity or of some sufficient reason for deviation) on the left side of such street when meeting any other vehicle, or on the right side of such street when passing any other vehicle ;

* * * * *

shall be punished with fine which may extend to fifty rupees.

Jagjivandas Store, Honorary Magistrate, First Class at Surat.

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The accused in each of the two cases was charged under section 61, clause (b) of the Bombay District Police Act, 1890, in that he drove his bicycle along a street in Surat on the wrong side. The trying Magistrate acquitted him on the ground that it was doubtful whether a bicycle could be said to be a vehicle and whether a man riding a bicycle could be said to be driving it under the section.

The Government of Bombay appealed against the orders of acquittal.

S. S. Patkar, Government Pleader, for the Crown.

No appearance for the accused.

PER CURIAM :—In these appeals, which are brought by the Government of Bombay, the only question for decision is whether a bicycle is or is not a vehicle within the meaning of the word as used in clause (b) of section 61 of the District Police Act, Bombay Act IV of 1890. That clause provides a penalty for any person who "drives a vehicle of any description" otherwise than on the left side of the street along which he is travelling. The learned Magistrate has thought that a bicycle is not a vehicle. We are clearly of the contrary opinion. A bicycle is a carriage and is, therefore, in our opinion, a vehicle. We further think that no difficulty is created by the use of the word 'drive,' and that a bicycle may be said to be a vehicle driven by the man who rides it. That is the view which was accepted in *Taylor* v. *Goodwin*[1], where it was contended that the person propelling the bicycle drives it, inasmuch as he guides the machine and regulates its pace. Mr. Justice Mellor in giving effect to that argument observed :

"I think the word 'carriage' is large enough to include a machine such as a bicycle which carries the person who gets upon it, and I think that such

[1] (1879) 4 Q. B. D. 228.

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person may be said to 'drive' it. He guides as well as propels it, and may be said to drive it as an engine driver is said to drive an engine."

The decisions of the Magistrate must, therefore, be reversed and the cases must be remanded to him in order that they may be retried and decided in accordance with law.

Order reversed.

R. R.

APPELLATE CIVIL.

Before Sir Basil Scott, Kt., Chief Justice and Mr. Justice Beaman.

1917.

January 18.

CHHOTALAL ADITRAM TRAVADI (ORIGINAL PLAINTIFF) APPELLANT *v.* BAI MAHAKORE, WIDOW OF GIRDHARLAL SEVAKRAM TRAVADI AND OTHERS (ORIGINAL DEFENDANTS), RESPONDENTS.*

Indian Evidence Act (I of 1872), section 91—Hindu Law—Partition—Partition evidenced by a writing not registered—Oral evidence admissible to prove the fact of partition.

The fact of partition may be proved by oral evidence although the deed embodying the terms of partition cannot be proved for want of registration.

SECOND appeal against the decision of C. N. Mehta, Joint Judge at Ahmedabad confirming the decree passed by M. I. Kadri, Subordinate Judge at Umreth.

Suit to recover possession.

Three brothers Chaganlal, Girdharlal and Aditram constituted a joint Hindu family. Of these Chaganlal died in 1897 leaving no issue and Girdharlal in 1905 leaving behind his widow Bai Mahakore. The plaintiff, son of Aditram, sued to recover possession of Survey Nos. 535 and 545 from defendant No. 2 and for an injunction restraining the defendant from using a well situated in Survey No. 544 alleging that these properties were a portion of the joint family property of the plaintiff, his brother Amritlal (defendant No. 3) and his deceased

* Second Appeal No. 660 of 1915.