

have attained his majority when he shall have completed his age of 21 years and not before."

The appellant, who has attained the age of 18 but has not attained the age of 21 years, is under the will of his father, entitled to one-third share in immoveable property paying revenue directly to the Government, the other sharers being his two brothers who are minors. It is admitted that no guardian of the appellant has been appointed by any Court, and assuming he is a person of whose estate the Government might authorize the Court of Wards to take charge, it is admitted that the Court of Wards has not taken charge of his estate nor has the Government authorized it to do so. By the expression "minor under the jurisdiction of the Court of Wards" we understand not a person of whose estate the Court of Wards might, with the sanction of Government, take charge, but a person of whose estate the Court of Wards has actually assumed the management under the orders of Government. If the Legislature did not, as it clearly did not, intend to extend the period of majority in the case of a minor subject to, but not brought under, the jurisdiction of the District Court in the matter of guardianship, it may be presumed it did not intend to do so in the case of a minor subject to, but not actually brought under, the jurisdiction of the Court of Wards. We, therefore, overrule the objection.

[13] APPELLATE CIVIL.

The 28th March, 1881.

PRESENT :

MR. JUSTICE INNES AND MR. JUSTICE KINDERSLEY.

Undi Rajaha Raja Velugoti Kumara Yachama Nayadu Bahadur, Panch Hazar
Munsubdar Raja of Venkatagiri.....(Plaintiff) Appellant
in R. A. 52 and Respondent in R. A. 63 of 1880

versus

Mahomed Rahimtulla Sahib..... (Defendant) Respondent in R. A. 52
and Appellant in R. A. 63 of 1880.*

Civil Procedure Code, Sec. 540, Order directing part of claim to be dismissed, Appeal from, before final decree.

Where a Judge, after the defendant's written statement was put in, framed certain preliminary issues and decided them directing part of plaintiff's claim to be dismissed and part to be tried on the merits (which trial might necessitate the taking of an account from defendant).

Held that no appeal lies from such an order either on the part of the plaintiff because the Civil Procedure Code only allows an appeal against a portion of the decision when there has been a decision relating to the disposal of the entire suit, or on the part of the defendant inasmuch as there had been no final order to take an account.

In this case plaintiff sued the defendant for Rs. 3,14,085-8-3 due from him as lessee of the five northern taluks of plaintiff's zamindari and for moneys received and misappropriated by defendant as plaintiff's Dewan from 1864-1875

*R. A. 52 and 63 of 1880 against the decree of J. D. Goldingham, District Judge of Nellore, dated 19th February, 1880.

and for damages for negligently allowing decrees and bonds in plaintiff's favour to become barred by lapse of time.

On February 19, 1880, the case came on for hearing and for disposal of certain preliminary issues framed by the Court on the defence set up, and the District Judge made the following order:—"It is ordered that the plaintiff's claim as set forth in Schedules I, 2 a, b, c and d, 3, 7, 8, 9 and 10 be heard on the merits; that the claim mentioned in Schedules 5 and 6 and so much of the claim mentioned in Schedule 4 regarding which plaintiff lost his right of action under Article 91, Act IX of [14] 1871, be dismissed, and that plaintiff do pay the costs on the barred items."

The plaintiff appealed to the High Court against the decree (*sic*) of the District Judge, dated 19th February 1880, so far as it dismissed his claim to the items Nos. 5 and 6 in the plaint, and the defendant appealed against the same decree (*sic*) so far as it held any part of plaintiff's claim *not* to be barred by the Law of Limitation.

Mr. *Shepherd* and *T. Rama Rau* for the Plaintiff.

The Advocate-General (Hon. *P. O'Sullivan*) and *C. Ramachandra Rau Sahib* for the Defendant.

The Court (INNES and KINDERSLEY, JJ.) delivered the following

Judgment:—We think there is at present no appeal from the orders made in this suit.

In regard to the appeal of the defendant through the Advocate-General there has been as yet no order, and there could have been no order for the taking of an account, because at the date of the order all the issues had not been settled, and it appears from the issues framed since the order was passed that several questions will have to be tried before the Court will be in a position to direct the taking of an account.

In regard to the appeal of the plaintiff, the order of the Judge deciding that the suit is barred as to certain items relates only to a portion of the case. The Code no doubt allows an appeal against a portion of the decision, but this supposes that there is a decision relating to the disposal of the entire suit. There is at present no such decision.

We must hold that there was no right of appeal.

The result is that both appeals will be dismissed.

Each party will bear his own costs.