

1876

The judgment of the Court, so far as it is material to the above contention, was as follows :—

TOTA RAM
v.
SHER SINGH.

It is true that the Rent Act does not expressly declare that interest will accrue on other sums which may be recovered in the Revenue Court except sums due in respect of rent, but neither does it declare the Revenue Courts incompetent to award interest, and it would be contrary to the policy of the Act to compel a plaintiff to resort to the Civil Court to obtain compensation in the way of interest for the default in payment of sums which are only recoverable in the Revenue Courts. As it has been the practice in the Revenue Courts to decree interest on arrears of profits, we shall not interfere with the decree of the Court below in this respect.

APPELLATE CIVIL.

1876

June 29.

(Mr. Justice Turner and Mr. Justice Spankie).

GAUBI (PLAINTIFF) v. CHANDRAMANI (DEFENDANT).*

Hindu Law—Hindu Widow—Family Dwelling-house—Right of Residence.

A Hindu widow, who resides with her husband and the members of his family in the family dwelling-house while he is alive, is entitled to reside therein after his death, and cannot be ousted by the auction-purchaser of the rights and interests in the house of her husband's nephew.

Mangala Debi v. Dinanath Bose (1) followed (2).

The plaintiff in this suit was the auction-purchaser of the rights and interests in a certain dwelling-house of his judgment-debtor, Bindesri Parshad.

Bindesri Parshad was the son of Lachman Parshad, deceased, and nephew of Beni Parshad, also deceased.

When the plaintiff endeavoured to obtain possession of the house he was resisted by the defendant, the childless widow of Beni Par-

* Special Appeal, No. 469 of 1876, against a decree of the Subordinate Judge of Gorakhpur, dated the 17th February, 1876, reversing a decree of the Munsif, dated the 30th November, 1875.

(1) 4 B. L. R., O. J. 72; S. C., 12 W. (2) See, however, *Mohun Geer v. Tota*, H. C. R., N.-W.P., 1872, p. 153.
R., O. J. 35.

shad, who was residing in the house, and claimed the right to reside in a moiety thereof as her husband's widow. He therefore brought the present suit to eject her.

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GAURI
v.
CHANDRA-
MANI.

The Court of first instance gave him a decree. The lower appellate Court held, on the ground that a moiety of the house was admittedly the separate property of Beni Parshad, that the defendant was entitled to the right of residence claimed by her, and dismissed the plaintiff's suit.

The plaintiff appealed to the High Court.

Lala *Lalta Parshad*, for the appellant.

The respondent did not appear.

The judgment of the Court was as follows :—

It does not appear to have been admitted that the property was held by Lachman Parshad and Beni Madho in equal shares, but assuming it was the joint property of the two brothers, the widow of Beni Madho is entitled to live in it, it being the house in which she resided with her husband. She cannot be ousted by a purchaser of her nephew's rights—*Mangala Debi v. Dinanath Bose* (1). The house is a small one, and it is not shown that one moiety is more than sufficient as a residence for the Mussamat. We shall not therefore disturb the decree of the lower appellate Court, but dismiss the appeal with costs.

APPELLATE CIVIL.

1876
June 30.

(*Mr. Justice Spankie and Mr. Justice Oldfield*).

BISHAN CHAND (DEFENDANT) v. AHMAD KHAN AND OTHERS (PLAIN-
TIFFS).*

Act IX of 1871, s. 5.a.—Institution of Suit—Limitation.

Held, that where the period of limitation prescribed for a suit expired when the Court was closed for a vacation, and the Court, instead of re-opening after the vacation on the day that it should have re-opened, re-opened on a later day, and the suit was instituted when it did re-open, it was instituted within time.

* Special Appeal, No. 534 of 1876, from a decree of the Judge of Ghazipur, dated the 19th April, 1876, reversing a decree of the Subordinate Judge, dated the 12th June, 1875.