Court, at their request, considered and determined, and having determined it in their favour, the Court could not order that execution should proceed. We see no force in this contention.

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We must, for the reasons given, set aside the order of the Subordinate Judge refusing to allow execution on the ground that it is barred under article 179 of the Limitation Act. It is said that other objections were taken which have not been disposed of. If this is so, the Subordinate Judge must, of course, dispose of them before making an order for execution.

The appellants will get their costs in this Court.

C. S. *Appeal allowed.*

Before Mr. Justice Norris and Mr. Justice Macpherson.

SAJEDUR RAJA (DEFENDANT) *v.* BAIDYANATH DEB AND OTHERS (PLAINTIFFS).*

1892 *September* 2.

Right of suit—Civil Procedure Code (Act XIV of 1882), ss. 30, 539—Suit to remove a Mohunt—Trust for "Public Religious purposes"—"Numerous parties."

The "numerous parties" mentioned in section 30 of the Code of Civil Procedure mean parties capable of being ascertained.

Two plaintiffs instituted a suit, on behalf of themselves and 42 other persons named in a schedule to the plaint, against a mohunt of an *akhra* to have certain alienations of property belonging to the idol set aside and the mohunt removed on the ground that he was wasting the idol's property and setting up an adverse title to it, and to have another mohunt and trustee of the property appointed in his place. The plaintiffs alleged that they and the 42 others named in the schedule were in the habit of worshiping the idol or of contributing to the worship and expenses of it, but it was clearly established by the evidence that any Hindu who chose was at liberty to give *puja* or render service and worship, and that others than the plaintiffs and the 42 persons named in fact did so, and that the plaintiffs and the persons named were, therefore, not the only persons interested in the suit. The plaintiffs applied for and obtained leave to institute the suit under the provisions of section 30 of the Code. A decree having been made in their favour, on appeal—

Held, that the suit was not one to which the provisions of section 30 were applicable, as the persons interested therein, not being the whole Hindu

* Appeal from Original Decree, No. 169 of 1891, against the decree of Baboo Atool Chandra Ghose, Subordinate Judge of Sylhet, dated the 26th February 1891.

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community, were incapable of ascertainment, and that the suit was one to which the provisions of section 539 of the Code applied, the suit being one based on the existence of a trust for public religious purposes and upon a breach of that trust and for the appointment of a new trustee, and being such should have been dismissed, not having been brought in the District Court or with leave of the Collector.

THIS suit was brought by Baidyanath Deb and Radha Ram Dhar on behalf of themselves and forty-two others, whose names and addresses were given in a schedule to the plaint, and the plaint was presented on the 4th January 1890 in the Court of the Subordinate Judge of Sylhet. It appeared that there was a deficiency in the stamp duty of Re. 1-14 on that date, and on the 6th January, after this deficiency had been made up, an order was passed granting the plaintiffs leave to join their several causes of action under section 44 of the Code of Civil Procedure, and also leave under section 30 to institute the suit on behalf of themselves and the 42 persons named in the schedule, and it was also then ordered that on the fees being deposited, the notices under the section should be served on those persons.

The plaint alleged that the two plaintiffs and the persons named in the schedule were now and then in the habit of worshipping and rendering service to an idol Nrisingha, and of contributing to the worship and service thereof; that certain moveable and immoveable property specified in two schedules annexed thereto belonged to that idol; that the service and worship of the idol was performed out of profits of the immoveable properties, and that the moveable properties were used in such service and worship; that defendant No. 1 was the mohunt of the *akhra* (temple, etc.), and had been placed in charge of all properties, and used to manage and look after them, and that he was in possession of them on behalf of the idol. The plaint went on to allege that, although defendant No. 1 had no right of his own in the immoveable properties, he and defendant No. 2 had colluded together for the purpose of extinguishing the rights of the idol, and that defendant No. 1 had executed a *kobala* on the 4th Choitro 1289 (17th March 1883) in respect of some of the immoveable properties, and two mortgages, dated respectively the 4th Choitro 1289 and 1st Assin 1291 (16th September 1884), in respect of others, in favour of defendant

No. 2, and that the latter had obtained a decree on the 31st May 1887 on those two bonds which he was proceeding to execute. The plaintiffs also alleged that defendant No. 1 was not a fit and proper person to continue to act as mohunt, and that he and the other defendant were wasting the property of the idol and were setting up a title on behalf of defendant No. 1 to the other properties. They accordingly prayed that the properties set out in the schedules might be declared the property of the idol; that the *kobala* and the two mortgages and the decree passed thereon might be declared inoperative as against its rights; that defendant No. 1 might be removed from his office of mohunt and some competent person appointed in his stead as trustee for the management and protection of the property, and that possession might be given to the person so appointed.

On the 6th January 1890, after the leave above referred to was given, an application was made for a temporary injunction restraining the sale of the properties in execution of the mortgage decree, and an order was passed, which recited that the suit had been filed that day, and granted the application and restrained the sale for a period of three months, or until the disposal of the suit.

The suit was not contested by defendant No. 1, but defendant No. 2 filed a written statement in which, *inter alia*, he pleaded that the plaintiffs could not maintain the suit; that it was not a suit to which the provisions of section 30 were applicable, as that section did not apply to a small number of persons or limited number of plaintiffs; that the suit had not been brought on behalf of all the persons interested therein, and that leave under section 539 of the Code and Act XX of 1863 should have been obtained to institute the suit.

The written statement put forward other grounds of defence to the suit, which it is immaterial for the purpose of this report to notice, having regard to the decision of the High Court.

Twelve issues were fixed for trial, of which those that are material are set out in the judgment of the High Court.

The Subordinate Judge decreed the suit in favour of the plaintiffs, and defendant No. 2 thereupon appealed to the High Court.

Numerous points were raised and argued at the hearing of the appeal, but the judgment of the High Court renders it unnecessary

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to refer to any other question than the applicability of section 30 of the Code to the suit.

The nature of the evidence bearing on that question and the judgment of the Subordinate Judge, together with the arguments advanced at the hearing of the appeal, are sufficiently stated in the judgment of the High Court.

Dr. *Rashbehary Ghose*, Baboo *Tara Kishore Chowdhry*, and Baboo *Mohiny Mohan Roy* for the appellant.

Baboo *Taruk Nath Palit* for the respondents.

The following cases were cited during the hearing of the appeal :—

For the appellant—*Wajid Ali Shah* v. *Dianat-ul-lah Beg* (1), *Raghubar Dial* v. *Kesho Ramanuj Das* (2), *Jan Ali* v. *Ram Nath Mundul* (3), *Lutifunnissa Bibi* v. *Nazirun Bibi* (4), *Subbayya* v. *Krishna* (5), *Manohar Ganesh Tambekar* v. *Lakhmiram Govindram* (6), *Rupa Jagshet* v. *Krishnaji Govind* (7), *The Attorney-General* v. *Jesus College, Oxford* (8), *Sonatun Bysack* v. *Juggutsoondree Dossee* (9), *Ram Coomar Paul* v. *Jogender Nath Paul* (10), and *Brojosoondery Debia* v. *Luchmee Koonwaree* (11).

For the respondent—*Panch Cowrie Mull* v. *Chumroo Lall* (12), *Kalee Churn Giri* v. *Golabi* (13), *Fakurudin Sahib* v. *Ackeni Sahib* (14), *Zafaryab Ali* v. *Bakhtawar Singh* (15), *Narayan* v. *Chintaman* (16), *Radhabai kom Chimnaji Sali* v. *Chimnaji bin Ramji Sali* (17), *In re Mohun Dass* v. *Lutchmun Dass* (18), *Radha Mohun Mundul* v. *Jadoomonee Dossee* (19), and *Kalidas Jivram* v. *Gor Parjaram Hirji* (20).

(1) I. L. R., 8 All., 31.
(2) I. L. R., 11 All., 18.
(3) I. L. R., 8 Calc., 32.
(4) I. L. R., 11 Calc., 33.
(5) I. L. R., 14 Mad., 186.
(6) I. L. R., 12 Bom., 247.
(7) I. L. R., 9 Bom., 169.
(8) 29 Beav., 163.
(9) 8 Moo. I. A., 66.
(10) I. L. R., 4 Calc., 56.
(11) 15 B. L. R., 176 note.
(12) I. L. R., 3 Calc., 563; 2 C. L. R., 121.
(13) 2 C. L. R., 128.
(14) I. L. R., 2 Mad., 197.
(15) I. L. R., 5 All., 497.
(16) I. L. R., 5 Bom., 393.
(17) I. L. R., 3 Bom., 27.
(18) I. L. R., 6 Calc., 11.
(19) 23 W. R., 369.
(20) I. L. R., 15 Bom., 309.

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The judgment of the High Court (NORRIS and MACPHERSON, JJ.) was as follows:—

The facts out of which this appeal arises as gathered from the evidence upon the record, and the statements of the learned pleaders for the parties, are these.

In the town of Sylhet there is an *akhra* of the idol Narsingha. This *akhra* is very old, but when it was founded or established, or by whom, does not appear.

The mohunt of the *akhra* has, up to the date of the institution of this suit, always been a Baisnab of the Ramayat sect; but every Hindu who pleases can worship in the *akhra* and render service to the idol, and many persons residing in the neighbourhood of the *akhra* other than the plaintiffs and the forty-two persons on whose behalf the suit is brought, do as a matter of fact worship therein and render service to the idol.

In the year 1268 (B.S.) one Bala Bhadra Das was mohunt of the *akhra*, and on the 6th Chaitra of that year, corresponding to 18th March 1862, he made a will which is in the following terms: "This will is executed by Bala Bhadra Das, mohunt of the *akhra* of the idol Sri Sri Narsing, inhabitant of Kasba, Sylhet, Mahala Kalighat, in favour of you Ram Krishna Das Baisnab and Ram Govinda Das Baisnab, inhabitants of the same to the following effect:—That being in possession of the land of the *akhra* of the aforesaid idol and of the land on the side of the river Sarama and of the undermentioned rent-paying and rent-free lands, appertaining to *taluk* Sonandpuran and others in *pargana* Banant, and *pargana* Bade Diorain, and *pargana* Ichhamati, and the moveable properties of the *akhra* under the deed of *hiba* executed without any consideration on the 23rd Aswin 1260 B.S., and signed by my *guru*, Doyal Das Mohunt, and also of the lands purchased by me and of the self-acquired moveable properties I have been managing the *sheba* and *puja* of the idol. As I am old and infirm and as you, Ram Krishna Das, are my dear and great friend, and as you Ram Govind Das are my favourite disciple, and quite competent to perform the *puja* and *sheba*, I of my own accord bequeath to you to-day for the due performance of the *sheba* and *puja* in future, all the lands mentioned in the said *hiba* and my self-acquired lands as per schedule mentioned below,

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and all the moveable properties lying in the *akhra* on this condition, that on my demise you shall take possession of all the moveable and immoveable properties, and you and your disciples in succession shall perform the *sheba* and *puja* of the idol, and being entitled to and possessed of the *jamas* of the rent-paying *taluks*, after having them transferred to your names, you will manage the *sheba* and the *puja* of the idol established in the said *akhra* with the profits thereof. None of my other disciples shall have any claim thereto. I duly make over to you all the deeds and documents I have regarding the said lands, etc. To this effect I execute this will, dated the 6th Chaitra 1268 B.S."

Amongst the properties mentioned in the schedule are *taluk* No. 224, *hissa* Suna Ram Rupram, *pargana* Ichhamati; *taluk* No. 221, Sananda Puran, *pargana* Ichhamati; *taluk* No. 223, Doyal Singh, *pargana* Ichhamati; *taluk* No. 222, Mukta Haris, *pargana* Ichhamati; and *taluk* No. 75, Baranari, *pargana* Ichhamati.

The *hiba* alluded to by Bala Bhadra Das in his will as having been executed by his *guru*, Doyal Das Mohunt, is not on the record, and whether the above-mentioned properties were comprised therein or were the self-acquired lands of Bala Bhadra Das, does not appear. The defendant No. 1 succeeded to the mohuntship of the *akhra* on the death of Bala Bhadra Das. On 4th Chaitra 1289, corresponding to 17th March 1883, the defendant No. 1 sold to the defendant No. 2 a portion of taluk No. 224, *hissa* Suna Ram Rupram, for Rs. 600; and on the same day he mortgaged portion of *taluks* No. 221 Sananda Puran, No. 223 Doyal Singh, No. 222 Mukta Haris, and No. 75 Baranari, to defendant No. 2 to secure Rs. 800; and on the 1st Aswin 1291, corresponding to 16th September 1884, he mortgaged further portions of *taluks* No. 221 Sananda Puran and No. 223 Doyal Singh to defendant No. 2 to secure Rs. 600.

The defendant No. 2 sued on his mortgage-bonds and obtained an *ex parte* decree on 31st May 1887.

On 14th August 1889, defendant No. 2 applied for execution of his decree, and on 20th September 1889, sale proclamation was directed to be issued, fixing 3rd November 1889 as the date of sale of the mortgaged premises; the sale was subsequently, on the application of the judgment-debtor, defendant No. 1, postponed

until 4th January 1890; and on 6th January 1890, after the filing of the plaint in this suit, a temporary injunction was granted staying the sale for a further period of three months, or until disposal of the suit.

The plaint in this suit, which we think we must hold to have been filed on 6th January 1890, after leave obtained under sections 30 and 44 of the Code of Civil Procedure, alleged that the plaintiffs and forty-two other persons, whose names and addresses are set out in schedule I, are in the habit of worshipping the idol Narsingha or of contributing to the worship and service thereof; that the immoveable and moveable properties specified in schedules II and III belong to the idol; that the defendant No. 1 is the mohunt of the *akhra*, and as such mohunt is in possession of the said properties on behalf of the idol; that although he had no right of his own to any of the said properties, yet he had executed a *kobala* (the *kobala* of 4th Choitro 1289) in favour of the defendant No. 2 in respect of some of the immoveable properties, and the mortgages (those of 4th Choitro 1289 and 1st Assin 1291) in respect of others; that a decree (that of 31st May 1887) had been obtained on the mortgages and execution taken out and a sale proclamation issued; that if the *kobala* was allowed to stand and the mortgaged properties to be sold, the service and worship of the idol would be stopped; it was alleged, too, that the defendant No. 1 was not a fit person to be continued in the office of mohunt.

The relief claimed was a declaration that the immoveable and moveable properties specified in schedules II and III were the property of the idol; a declaration that the *kobala* and the mortgages executed by defendant No. 1 in favour of defendant No. 2, and the execution proceedings taken upon the decree obtained upon the mortgages, were inoperative as against the idol; the dismissal of defendant No. 1 from the office of the mohunt of the *akhra* and from the management of the property of the idol, and the appointment of some competent person as mohunt of the *akhra* and trustee of the property of the idol in the place of defendant No. 1, and an order for the transfer of the property covered by the *kobala* and mortgages from the defendants to the person who might be appointed mohunt and trustee.

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The defendant No. 1 did not defend the suit.

The defendant No. 2 pleaded that neither the plaintiffs nor the forty-two persons named in schedule I of the plaint had any right of suit; that the suit was not one to which the provisions of section 30 of the Code of Civil Procedure were applicable; that if its provisions were applicable, leave had not been obtained under it, nor was the suit brought on behalf of *all* the parties interested therein; that leave to bring the suit ought to have been obtained under section 539 of the Code of Civil Procedure and under the provisions of Act XX of 1863; that the plaintiffs were *benamidars* of defendant No. 1; that there was misjoinder of parties and causes of action; that defendant No. 1 had rights of his own in the *taluks* Nos. 224, 221, 223, 222, and 75; that the said *taluks* did not belong to the idol; and that defendant No. 1 had upwards of 12 years before suit sold portions of the said *taluks* to other purchasers who were in possession.

Upon these pleadings the following issues, *inter alia*, were framed:—

1. "Whether the plaintiffs and the persons named in schedule No. 1 of the plaint are competent to bring this suit?"

2. "Whether the persons named in schedule No. 1 of the plaint are the persons contemplated under section 30, Civil Procedure Code?"

3. "Whether plaintiff's claim is tenable without obtaining permission under section 539, Civil Procedure Code, and under the provisions of Act XX of 1863?"

4. "Whether the plaintiffs are *benamidars* of Ram Govind Baisnab, defendant No. 1, the judgment-debtor?"

5. "Whether the suit should fail for misjoinder of parties and causes of action?"

6. "Whether the plaintiffs or the persons alleged by them are the only persons entitled to worship or help in the worship of the idol Narsingha?"

7. "Whether the properties mentioned in schedules II and III of the plaint belonged to the idol Narsingha, and whether defendant No. 1 held them as trustee?"

8. "Whether the disputed lands appertaining to *taluks* Nos. 221, 222, 223, 224 and 75 belonged to defendant No. 1?"

9. "Whether defendant No. 1 by mismanagement and waste of the property has rendered himself liable to be removed from office?"

All these issues were found in favour of the plaintiffs, and the suit was decreed in their favour.

The Subordinate Judge's decision on the first and second issues is as follows:—

"The plaintiffs have obtained permission of the Court, under section 30 of the Civil Procedure Code, to prosecute this suit. This, I think, is a case which comes under that section. Numerous are the parties who have interest in the subject-matter of the suit. I see no incompetency in the plaintiffs to bring and maintain this suit. They are Hindus of the sect who frequent the *akhra* and worship Narsingha Debta and offer prayer in the temple, and are interested in the preservation of the property dedicated to the idol out of the rents and profits of which their place of worship is kept in repair and order, and numerous rites and ceremonies and festivals are performed."

Upon the third issue the Subordinate Judge says:—"Act XX of 1863 was passed to enable the Government to divest itself of the management of the religious endowments that were vested in them by Regulation XIX of 1810 of the Bengal Code, and section 539 of the Civil Procedure Code relates to trust properties created for public charitable or religious purposes. These properties are private *debutter* properties."

Upon the sixth issue the Subordinate Judge found that "it has been proved that the plaintiffs worship and help in the worship of the idol Narsingha Debta; there is no satisfactory proof of others being like them worshippers of the said idol."

The finding of the seventh issue is as follows:—"Schedule III of the plaint enumerates utensils, instruments, and chests, and almirahs for keeping them. The utensils and the musical instruments are used for the worship of the idol. Defendant No. 1 does not claim them as his own. Nor does defendant No. 2 set up any right in them. From the will of Bala Bhadra Das Mohunt, it appears that the properties of Schedule No. II belonged to him and he dedicated them to the idol Narsingha Debta. Ram Kishen and Ram Govind, *chelas* of Bala Bhadra, were appointed *shebaits*. They

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were enjoined and directed by the will to manage the property for the idol and devote the income to the worship of the idol. They are to hold it as trustees for the Debta. Defendant No. 1 has sued for rent of those properties as *shebait*, trustee or mohunt of the *akhra* Narsingha Debta, and he has dealt with the properties as such."

With regard to the eighth issue the Subordinate Judge says :— "Defendant No. 2 could not show how defendant No. 1 got the *taluks* 221, 222, 223, 224, and 75. He might have sold some share in this as his own private property. It does not stop plaintiff from proving that Ram Govind got them by will from Bala Bhadra, and that he was merely a trustee or *shebait* of the idol Narsingha Debta."

Upon the ninth issue the Subordinate Judge finds that defendant No. 1 has been guilty of waste, and points out that he has made no objection to being removed from office.

It appears that one Gour Mohan Das Baisnab has applied to be appointed mohunt in the place of defendant No. 1. The plaintiffs said that he was a fit person, and the decree of the Subordinate Judge appointed him.

The defendant No. 2 appealed. On the hearing of the appeal the main grounds urged by Dr. Rash Behari Ghose were *first*, that the provisions of section 30 of the Code of Civil Procedure were not applicable to a suit of this nature and character. *Second*, that even if such provisions were applicable, leave under section 30 was not obtained *before* the institution of the suit. *Third*, that if they were applicable, yet the suit ought to be dismissed, as the evidence conclusively shows that it was not brought on behalf of *all* the parties interested. *Fourth*, that the will of Bala Bhadra Das did not operate as a valid dedication of the lands mentioned in the schedule thereto to the use of the idol; that upon a true construction of the will it ought to be held that they were given to the defendant No. 1 free from any trust or subject only to a charge for the expenses of the worship. *Fifth*, that even if the will operated as a valid dedication of the lands to the use of the idol, there was no evidence that the lands comprised in the appellants' *kobala* and mortgages formed part of the lands so dedicated. *Sixth*, that the suit was not maintainable without leave obtained under section

539 of the Code of Civil Procedure or under Act XX of 1863, or both. *Seventh*, that the evidence established collusion between the plaintiffs and defendant No. 1; that on a proper consideration of the evidence the lower Court ought to have held that the suit was really brought by defendant No. 1 with the object of defrauding his creditors and defeating the just claims of defendant No. 2.

In support of his second contention Dr. Rash Behari calls attention to the fact that the plaint purported to have been filed on the 4th January 1890, and that leave under section 30 was not granted until 6th January 1890. No doubt there is an impressed stamp at the top of the first page of the plaint bearing these words: "Sub-Judge's Court, Sylhet, filed 4th January 1890," and underneath are the initials "J. K. C.," which are those of the Subordinate Judge. A reference to the order sheet, however, shows that when the plaint was first presented there was a deficiency in the court-fee of Re. 1-14; this deficiency was made good on the 6th January, and then it was ordered "that permission be given to the plaintiffs under section 30 to bring this suit for themselves and on behalf of the persons mentioned in schedule I;" and on the same day there is another order relating to an application for a temporary injunction to stay the auction sale in execution of defendant No. 2's decree of 31st May 1887, which recites—"As the plaintiffs after filing this suit to-day." It appears, too, that this point was not taken in the lower Court, where, if it had been taken, it could have been decided upon the evidence. We are of opinion that we cannot give effect to it here.

We are, however, of opinion that the appellant is entitled to our judgment on other of the grounds urged by Dr. Rash Behari Ghose.

We are of opinion that the "numerous parties" mentioned in section 30 of the Code of Civil Procedure means parties capable of being ascertained; this seems clear from a reference to the provisions for service of notice at the plaintiff's expense upon "all such parties."

In *Adamson* v. *Arumugam* (1) it was said that section 30 "is rather designed to allow one or more persons to represent a class

(1) I. L. R., 9 Mad., 463.

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having special interests than to allow such persons to sue on behalf of the general public to which the notices prescribed by that procedure would be inapplicable." The evidence on the record clearly establishes that "every Hindu who pleases can give *puja* or render service (*sheba*) to the idol Narsingha of the *akhra;* every Hindu can go into the said *akhra* and perform *puja*, *sandhya*, or say prayers;" in other words, the evidence shows that the whole Hindu community are interested in this suit, which has for its object, amongst other things, the preservation and continuation of the worship of the idol.

The whole Hindu community is incapable of ascertainment; and if it had been ascertained, it is clear that the notices required by section 30 have only been served upon forty-two of the community which probably consists of five million times that number. On these grounds, therefore, we are of opinion that this is not a suit to which the provisions of section 30 of the Code of Civil Procedure are applicable.

The cases relied on by the learned pleader for the respondent [*Radhabai kom Chimnaji Sali* v. *Chimnaji bin Ramji Sali* (1) and *Kalidas Jivram* v. *Gor Parjaram Hirji* (2)] do not appear to help him.

In the first case, the two plaintiffs sued (for themselves alone) to recover possession of a field which they alleged belonged to a certain idol, and which they said defendant No. 1 had alienated to defendant No. 2, who had sold it to defendant No. 3—no question as to the applicability of the provisions of section 30, Code of Civil Procedure. In the second case, the 13 plaintiffs sued on behalf of themselves and 195 others, but it appears that 208 persons comprised the whole number interested in the suit.

We are further of opinion that this suit is one to which the provisions of section 539, Civil Procedure Code, apply. The suit is based upon the existence of a trust (which if it exists at all, is clearly one "for public religious purposes") and upon a breach of that trust; the relief sought is the appointment of a new trustee and an order vesting property improperly alienated in the new trustee.

(1) I. L. R., 3 Bom., 27. (2) I. L. R., 15 Bom., 309.

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The plaintiffs do not sue for the establishment of their own right as worshippers or devotees of the idol. The suit seems to be one clearly contemplated by section 539, Code of Civil Procedure.

Suits under that section must be brought in the District Court after leave to institute them has been obtained from the Collector.

This suit was instituted in the Court of the Subordinate Judge and without leave obtained from the Collector, and it therefore cannot be sustained.

We are supported in the conclusions at which we arrive by the following cases, viz., *Wajid Ali Shah* v. *Dianat-Ul-lah Beg* (1) and *Rayhubar Dial* v. *Kesho Ramanuj Das* (2).

In this view of the case it is unnecessary to express any opinion on the other points raised by Dr. Rash Behari Ghose.

The appeal is allowed with costs.

Appeal allowed.

H. T. H.

Before Mr. Justice Macpherson and Mr. Justice Beverley.

RAM DAS AND TWO OTHERS (DEFENDANTS NOS. 1, 4, AND 5) v. CHANDRA DASSIA (PLAINTIFF).*

1892 *July* 21.

Hindu Law—Custom—Law governing Family adopting the Hindu religion.

In the absence of any custom to the contrary, or of any satisfactory evidence to show what form of Hindu law they have adopted, the members of a family who have adopted the Hindu religion are governed by the school of Hindu law in force in the locality where they reside.

Faninda Deb Raikat v. *Rajeswar Das* (3) referred to.

IN this suit the plaintiff, Chandra Dassia, sought to recover a one-third share of certain moveable and immoveable properties as the heiress of her deceased father. She alleged that her father

* Appeal from Appellate Decree No. 1462 of 1891 against the decree of Baboo Debendro Lall Shome, Subordinate Judge of Rangpur, dated the 4th of June 1891, affirming the decree of Mr. Syed Abdur Rohoman, Munsif of Kurigram, dated the 30th of September 1890.

(1) I. L. R., 8 All., 31. (2) I. L. R., 11 All., 18.
(3) I. L. R., 11 Calc., 463; L. R., 12 I. A., 72.