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her there, if he cares for her. We are not, therefore, prepared to disagree with the finding of the learned Subordinate Judge on the point under consideration.

The result is that the appeal fails and must be dismissed. We dismiss the appeal with costs. The decree of the lower appellate court is confirmed in all respects.

Appeal dismissed.

REVISIONAL CRIMINAL.

Before Sir Louis Stuart, Knight, Chief Judge.

1928
 April, 4.

MESSRS. LACHMI NATH AND BISHAMBHAR NATH
 (ACCUSED-APPLICANTS) v. THE LUCKNOW MUNI-
 CIPAL BOARD (COMPLAINANT-OPPOSITE PARTY).*

United Provinces Municipalities Act (II of 1916), sections 128 and 299—Chance visitor bringing a motor-car within a municipality—Motor-car used in a municipality for short periods, whether vehicle "kept" within a municipality under section 128—Proprietor, when liable to pay tax on a car in a municipality.

Held, that motor-cars brought by chance visitors into a municipality and not used in the municipality for more than short periods are not vehicles "kept" within the municipality within the meaning of section 128 of the U. P. Municipalities Act II of 1916 (local). Before it can be found that such a vehicle is kept within the municipality it must be established that it is retained within the municipality for more than short periods. There must be something in the nature of permanent retention.

Where the accused who were residents of another district visited Lucknow occasionally but never resided there at one time for a consecutive period longer than seven days and on some of these visits brought with them duly licensed and registered motor-cars but did not obtain licenses from or pay taxes to the Lucknow Municipality, *held*, that they were not liable to conviction and fine under section 299 of the said Act.

*Criminal Reference No. 6 of 1928.

Mr. *D. K. Seth*, for the applicants.

The Government Pleader (Mr. *H. K. Ghose*), for the opposite party.

STUART, C. J. :—These are two references against convictions passed and fines imposed upon certain persons in respect to the following matters. The persons in question do not reside within the precincts of the Lucknow Municipality. They reside in a village in the Unao district. They visit Lucknow occasionally but never reside there at one time for a consecutive period longer than seven days. During some of these visits they have brought with them duly licensed and registered motor-cars and used those motor-cars at the time of their visits. The case against them was that, as they have not obtained licenses from the Lucknow Municipality and paid taxes in respect of the use of these motor-cars, they were liable to conviction and fine under the provisions of section 299 of Local Act II of 1916 and they were accordingly convicted and fined. It has to be seen what offences they are charged with having committed. I find that the Lucknow Municipal Board had, subject to the sanction of the Local Government, authority to impose a tax on vehicles and other conveyances "kept" within the municipality. This authority is given in section 128 of Local Act II of 1916. I find further that such a tax was levied under Government Notification No. 4354/XI—14-E., dated 7th of December, 1917, on motor vehicles at certain rates. Sanction was obtained from the Government for the imposing of the tax. Such motor vehicles have to be licensed within fifteen days from the date of their possession. This is the only section having application to the cases. It is quite clear to my mind that motor-cars brought by chance visitors into Lucknow and not used in Lucknow for more than short periods are not vehicles "kept" within the municipality. Before it can be found that

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such a vehicle is kept within the municipality it must be established that it is retained within the municipality for more than short periods. There must be something in the nature of permanent retention. I do not propose to decide what the exact period of retention should be before a vehicle can be considered to have been kept within the municipality; but I am certainly of opinion that in the present cases there has been no such keeping within the Municipality as to render the proprietors liable to the payment of a tax. I, therefore, accept these references and direct that the convictions and sentences in question be set aside and that the fines, if paid, be refunded.

Reference granted.

APPELLATE CIVIL.

*Before Mr. Justice Muhammad Raza, and Mr. Justice
E. M. Nanavutty.*

RAM LAL (DEFENDANT-APPELLANT) v. MUSAMMAT
JWALIA AND OTHERS (PLAINTIFFS-RESPONDENTS).*

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Hindu Widows' Remarriage Act (XV of 1856)—Remarriage of a widow permitted by the custom of her caste to remarry—Widow, whether by remarriage forfeits property inherited from her first husband.

Held, that the Hindu Widows' Remarriage Act XV of 1856 is applicable in the case of a widow who is permitted by the custom of her caste to remarry and such widow does not, by remarriage, forfeit the property inherited by her from her first husband. *Gajadhar v. Kaunsilla* (1), *Mula v. Partab* (2), and *Bhagwandin v. Indrani* (3), relied upon.

*Second Civil Appeal No. 215 of 1927, against the decree of Ganga Shankar, Subordinate Judge of Unao, dated the 24th of February, 1927, confirming the decree of Gulab Chand Srimal, Munsif of Purwa at Unao, dated the 22nd of May, 1926, decreeing the suit.

(1) (1909) I.L.R., 31 All., 161.

(2) (1910) I.L.R., 32 All., 489.

(3) (1921) 24 O.C., 297.