APPELLATE CIVIL.

Before Mr. Justice West and Mr. Justice Nánábhái Haridás.

RA'MCHANDRA DABHOLKAR AND OTHERS (ORIGINAL PLAINTIFFS), APPELLANTS, v. ANANT SA'T SHENVI AND OTHERS (ORIGINAL DEFENDANTS) RESPONDENTS.* 1883 *September 28.*

Jurisdiction—Vatandár—Suit to rank as Vatandár—Bombay Act III. of 1874.

Under the Vatandárs Act (Bombay Act III of 1874), as under the law antecedent to it, the Civil Court has jurisdiction to entertain a suit to be declared a Vatandár.

This jurisdiction rests on the simple denial of the plaintiff's right by the defendant irrespective of the pecuniary loss or other injury caused or likely to arise to the plaintiff by its infraction.

When the list of Vatandárs is either undisputed, or settled by the decree of the Civil Court, the Collector derives jurisdiction under the Act to determine which of them shall be their representative.

THIS was a second appeal from the decree of C. E. G. Crawford, Assistant Judge of Ratnágiri, reversing the decree of the Subordinate Judge of Vengurla.

The original suit was begun by two persons, who were subsequently joined by five others. All the plaintiffs claimed to be declared Gávki Vatandárs of Vengurla; while Nos. 2 to 6 in addition demanded partition of a *thikán,* or field. The defendants denied the plaintiffs' right and contended, among other things that as the first and the seventh plaintiff had claimed no share in the field, the single suit in the name of all the plaintiffs for portion as well as declaration would not lie. It was also contended that the maintenance of the suit was barred for want of the Collector's certificate under the Pension Act XXIII. of 1871

The Subordinate Judge allowed the defendant's contention and rejected the plaintiffs' claim. The Assistant Judge reversed his decree as regards the claim to partition and remanded the cause for retrial on the merits as regards the claims for a declaration to rank as Vatandárs. Five of the plaintiffs appealed to the High Court.

Ghanashám Nilkanth Nádkarni for the appellants.

Pándurang Balibhadra for the respondents.

* Second Appeal No. 265 of 1882.

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RÁMCHANDRA DABHOLKAR v. ANANT SÁT SHENVI.

WEST, J.—The course of decisions in cases prior to Bombay Act III of 1874 clearly established the jurisdiction of the Civil Courts to determine whether a plaintiff claiming to be a Vatandár against the denial of his rights by another had such right. Then, as now, the Collector had authority to accept or reject, and, in some cases, to appoint an officiator, and when the suit was directed to coercing his authority, the Courts refused to entertain it, but that was thought a case entirely different from one in which the question was of the plaintiff's right to be ranked as a Vatandár at all. In the matter of an application for review of judgment in Regular Appeal No. 72 of 1871(1), this Court held a suit maintainable against a Vatandár for inducing the Collector to remove the plaintiff's name from the list of Vatandár sharers; and the case of *Rangráv Venktesh* v. *Krishnaráv Gopál* (2) was of a similar character.

It is contended that now the effect of Bombay Act III of 1874 is to make the Collector a judge of who shall or shall not be a representative Vatandár, and that, as his decision on that point is conclusive, the jurisdiction of the Civil Court is excluded. This argument, however, was rejected in *Ganesh Khanderáv Kulkarni* v. *Gangádhar Anant Kulkarni* (3). Bombay Act III. of 1874, in giving the Collector jurisdiction to pronounce who amongst the Vatandárs shall be representatives, does not give him jurisdiction to determine who, in disputed cases, shall be Vatandárs within the definition given in the Act. A particular mode of dealing between persons whose relative status is unquestioned does not extend to the determination of a question as to the status itself—*Prentice* v. *Loudon Longhurst* (4),—and here the question being as to the plaintiffs' right to rank as Vatandárs or co-sharers in a *Gávki vatan*, the jurisdiction of the Civil Courts over the dispute does not admit of serious doubt. The discretion of the Collector comes into play when those who are to be its subjects are determined.

No property, it is urged, has been taken by the defendants from the plaintiffs. No physical seizure has taken place, but there has been a denial of the plaintiffs' right as co-sharers to the

(1) Printed Judgments of 1874, page 205. (2) Printed Judgments of 1877, page 98.
(3) S. A. No. 217 of 1882, decided 11th June 1883. (4) L. R., 10 C. P., 679.

Collector, which has led him to refuse recognition to it. From this in the course of time, a bar by limitation would arise to the plaintiffs' assertion of their right—*Giriapagavda* v. *Jakamgavda* (1). "It has been settled that actual pecuniary damage is not necessary to give a right of action * * *. It is sufficient to show that the defendants are interfering with that which is a right and in a mode which may give a future legal right to interfere"—*Wilts and Berks Canal Navigation Company* v. *Swindon Water-works Company* (2). In another case it is laid down that where a right is set up by the defendants, the Court must adjudicate on the right, though the pecuniary loss in the particular case may be inappreciable—*Hext* v. *Gill* (3);—and again, that a declaration of right may properly be claimed wherever a right is met by an assertion of a contradictory right which the assertor professes an intention to use, so as to dispute and invade the right really existing, unless prevented by an injunction—*Swindon Water-works Company* v. *Wilts and Berks Canal Navigation Company* (4). These cases show that a wrong, though its practical effects are wholly in the future, still gives a claim to relief, and that the claim cannot be met by an allegation of no immediate palpable injury.

In the present case, the plaintiffs sue for a partition. Their title is denied. It cannot be said they were wrong in including the *vatan* in their suit, whether, in seeking the injunction which they claimed against the defendants, they were right or not. The mere denial of their right gives the Court jurisdiction to pronounce on it, unless this jurisdiction has been withdrawn by some special law, and this, as we have seen, is not the case. The District Court has rightly thought that a certificate under Act XXIII of 1871 was not necessary. We must reverse the decree of the District Court, declining jurisdiction over this portion of the claim, and direct that it be adjudicated on along with that part which relates to the landed property. Costs of this appeal to be disposed of in the final decision.

Decree reversed and case remanded.

(1) R. A. 65 of 1873, decided 10th March 1875. (2) L. R., 9 Ch. Ap., at p. 457.
(3) L. R. 7 Ch. Ap., 699. (4) L. R. 7 E. and I. Ap., pages 699, 707, 712, 714.