

1899.

KALLIANDAS'

v.
TULSIDAS.

an injunction, and it is the practice of the Courts in England to direct an enquiry as to damages though not prayed by the bill—*Lady Stanley of Alderly of Earl v. Shrewsbury*⁽¹⁾. In the present case the plaintiff asked for an injunction or for such other relief as the Court might think fit to grant. The case thus resembles the case of *Catton v. Wylde*⁽²⁾, in which a decree to ascertain what damages the plaintiff had sustained was ordered.

We ask the Judge of the lower appellate Court to take evidence and record a finding on this issue, *viz.* :—

What money damages is the plaintiff entitled to recover from the defendant for the injury complained of and found proved? and certify the same to this Court within two months.

(1) (1875) 19 Eq., 616.

(2) (1863) 32 Beav., 266.

CRIMINAL REFERENCE.

Before Mr. Justice Parsons and Mr. Justice Ranade.

QUEEN-EMPRESS v. DABHAI KABHAI.*

Salt Act (Bom. Act II of 1890), Sec. 47 (a)⁽¹⁾—*Possession of salt water with the intention of manufacturing salt.*

The mere possession of salt water with the intention of manufacturing salt therefrom is not an offence under the Bombay Salt Act (Bom. Act II of 1890).

REFERENCE by J. K. N. Kabraji, District Magistrate of Kaira, under section 438 of the Code of Criminal Procedure (Act V of 1898).

The accused was convicted by the Third Class Magistrate of Borsad under section 47 (a) of Bombay Act II of 1890 and sentenced to a fine of Rs. 5, for having in his possession salt water for the purpose of manufacturing salt.

* Criminal Reference, No. 66 of 1899.

(1) Section 47 (a) of Bombay Act II of 1890 provides as follows :—“Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license or permit obtained under this Act, manufactures, removes, or transports salt, shall, for every such offence, be punished with fine which may extend to Rs. 500 or imprisonment for a term which may extend to 6 months or both.”

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 QUEEN-
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The evidence against the accused showed that salt water was found in his house and that he admitted his intention to manufacture salt therefrom. But no salt was actually manufactured.

The District Magistrate was of opinion that the offence of manufacturing salt without a permit was not complete, and that the mere intention was not punishable under the Act.

The District Magistrate, therefore, referred the case to the High Court.

The reference came on for disposal before Parsons and Ranade, JJ.

There was no appearance for the Crown or for the accused.

PARSONS, J.:—The District Magistrate is right. The possession of salt water even with the intention of manufacturing salt therefrom is not made an offence under the Bombay Salt Act, 1890. We, therefore, reverse the conviction and order the fine to be refunded.

APPELLATE CIVIL.

Before Sir L. H. Jenkins, Chief Justice, and Mr. Justice Candy.

LAKSHMIBAI AND ANOTHER (ORIGINAL, DEFENDANTS), APPELLANTS, v. SARASVATIBAI AND ANOTHER (ORIGINAL PLAINTIFFS), RESPONDENTS.*

1899.

June 6.

Hindu law—Adoption by senior widow—Widow's capacity to adopt—Implied prohibition.

In the absence of express prohibition the husband's consent to an adoption by his widow is always to be implied.

The question of implied prohibition is one of legal inference from the facts found, and it is open to the Court to inquire into its correctness in second appeal.

Semble.—In the Bombay Presidency the widow's right to adopt is inherent and not merely delegated.

Semble.—In the absence of express prohibition by the husband, the widow's power to give or take in adoption is co-extensive with that of the husband.

SECOND appeal from the decision of Ráo Baká lur Vaman M. Bodas, First Class Subordinate Judge of Sholápur with appellate

* Second Appeal, No. 689 of 1898.