

did occur which would justify the Deputy Magistrate upon the application of the husband in altering the order for maintenance in favor of the wife.

At the same time it appears to me quite clear that that change of circumstance, even if it were such as to justify the withdrawal of the order of maintenance against the wife altogether, would not relieve the husband from the necessity of obedience to the order during the time which had elapsed up to the date when and until that change of circumstance had occurred; in other words, that the husband was at any rate strictly bound to pay the maintenance-money according to the terms of the order up to the date when in the Magistrate's presence he divorced his wife, as the Deputy Magistrate says he did.

With these remarks, which may serve as some guidance to the Deputy Magistrate, we direct that the record be returned to him, in order that he may take the requisite steps in the matter and pass the proper orders.

1873

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*Before Mr. Justice Macpherson,*

MODOOSOODUN PAUL v. DOYAL CHUND MULLICK,

1873

*May 15.*

*Suit on Decree of Calcutta Small Cause Court—Costs.*

THIS was a suit to recover Rs. 777-8, due under a judgment and decree of the Calcutta Court of Small Causes, which had been obtained by the plaintiff against the defendant, as executor of the estate of Cowar Cally Coomur Mullick Roy, deceased. The defendant had appeared in the suit in the Small Cause Court, and had denied assets of the deceased; and the decree was wholly unsatisfied as appeared by the certificate of the first Judge. The plaintiff alleged and proved by the evidence of the defendant himself that the latter was in possession of immoveable property belonging to the deceased out of which the plaintiff's claim could be satisfied.

The plaintiff prayed that the defendant as such executor might be decreed to pay to him the amount due under the decree of the Small Cause Court together with interest thereon and the costs of the present suit, and if the defendant should deny assets, for the administration of the estate of the deceased.

Mr. Lowe for the plaintiff:

The defendant did not enter appearance, but was called as a witness on behalf of the plaintiff.

MACPHERSON, J., granted a decree for the sum claimed, with interest from the date of decree at the rate of 6 per cent. and costs on scale No. 1. In default of payment for six months from date of decree, the estate to be administered in due course.

Attorney for the plaintiff: Baboo G. C. Chunder.