

Upon both grounds, first, that the suit for a declaration of the invalidity of the adoption is barred by the law of limitation ; and, secondly, upon the facts I think that the decision of the Court below is right, and that the appeal ought to be dismissed with costs.

1874

MRINMOYEE
DABBA
v.
BHOOBUN-
MOYEE DABBA.

Appeal dismissed (1)

(1) *Before Mr. Justice L. S. Jackson
and Mr Justice McDonell.*

SIDHDESSUR DUTT AND ANOTHER
(PLAINTIFFS) v. SHAMCHAND NUN-
DUN AND OTHERS (DEFENDANTS)*

The 22nd February 1875.

*Suit to set aside Adoption—Limita-
tion—Act IX of 1871, Sched. ii,
No. 129, s. 7—Cause of Action—
Minority.*

In a suit by the reversionary heirs of one S to set aside an adoption alleged to have been made with the permission of S, the plaintiffs alleged that S died in 1844; that the adoption took place in 1845; and that they attained their majority respectively on the 26th September 1871 and the 20th December 1872.

The suit was instituted on 16th June 1873. *Held*, that the adoption having taken place after the death of S, the cause of action arose at the date of the adoption, as provided by No. 129, Sched. ii, Act IX of 1871: and that the plaintiffs not having been in existence when the cause of action arose, were not entitled to the benefit of s. 7, Act IX of 1871, so as to enable them to sue within three years of attaining their majority.

SUIT to set aside an adoption. The plaintiff alleged that one Saya Ram Nundun, the plaintiff's maternal grand- father who was possessed of considerable property, moveable and immoveable, died on 30th Kartik 1251 (14th November 1844) leaving two daughters, Juggodissury Dasi, the mother of the plaintiffs, and their minor brother Rakhhal Das Dutt, and Bhubonessuri

Dasi, and his second wife Tripoora Soondery Dasi him surviving; that on his death the plaintiffs then being minors, the first two defendants Sham Chand and Prem Chand, in collusion with Tripoora Soondery and with the plaintiff's father Kristo Chunder Dutt, set up the third defendant Doorga Das Nundun, the eldest son of Sham Chand as the adopted son of Saya Ram; that Saya Ram neither adopted any son himself, nor gave permission for such adoption; that the plaintiffs were the legal heirs and successors of Saya Ram, and brought the present suit to protect their reversionary right by setting aside the adoption of Doorga Das Dutt. The plaintiffs alleged that they attained their majority respectively on 11th Aswin 1278 (26th September 1871) and 7th Pous 1279 (20th December 1872).

The alleged adoption was stated to have been made on 25th Sraban 1252 (8th August 1845).

The suit was instituted on 16th June 1873. The defendants in their written statements raised (*inter alia*) the defence that the suit was barred by the law of limitation, and this was the only defence material to this report.

The Subordinate Judge was of opinion that as No. 129 of Sched. ii of Act IX of 1871, provided that a suit for setting aside an adoption might be instituted within twelve years from

* Regular Appeal, No. 32 of 1874, against a decree of the Officiating Subordinate Judge of Zilla Hooghly, dated the 15th January 1874.