

This, we remark, was the view the defendant took of the plaint, for he raised the issue of twelve years' limitation, which the Principal Sudder Ameen tried.

The Judge's order must be reversed with costs (of this appeal) on the special respondent, and the case be remanded for trial on its merits, and the costs will follow the result.

1863

 MOZAFFUR
 ALLY
 v.
 GIRISH
 CHANDRA
 DAS.

Before Mr. Justice Lock and Mr. Justice Glover.

MUST. MAHARANI v. NANDA LAL MISSER.*

1863
 June 24.

Waste by Hindoo Widow—Reversioner—Possession.

Waste on the part of a Hindoo widow in possession being proved, it is not competent to the Court to put the reversioner in possession, a-sigining maintenance to the widow. A manager should be appointed to the estate accountable to the Court. The reversioner may be appointed such manager.

PLAINTIFF, a Hindoo reversioner, sued for possession of the estate alleging and proving waste on the part of the widow, who was heiress in possession. He further prayed that maintenance at a rate specified should be assigned to her. Both the lower Courts decreed in favor of the plaintiff.

In special appeal, the one point urged was, that, under no circumstances of waste, could the reversioner obtain possession during the life-time of the widow.

Moulvie *Syud Murhamut Hossein* and Baboo *Ramanath Bose* for appellants.

Mr. *R. E. Twiddle* for respondent.

The judgment of the Court was delivered by

LOCK, J.—Waste on the part of the widow has been proved, and the lower Courts have given the reversioner possession, and directed that his name be registered as a joint proprietor with the widow. We think the order is wrong. The Court should not have converted the reversioner into an actual proprietor; it should have appointed a manager accountable

* Special Appeals, Nos. 2951 and 2252 of 1867 from a decree of the Principal Sudder Ameen of Bhagulpore, affirming a decree of a Moonsiff of that district.

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 MISSEK.

to the court for all his acts in respect to the estate, who should be required to render accounts periodically, and be put in possession of all the property in the widow's own possession. Leases which have been given by her cannot be interfered with, as laid down in the Full Bench Ruling, *Gobind Mani Dasi v. Sham Lal Bysak*, *Kali Kumar Chowdry v. Ram Das Shaha*, *Gaur Hari Gui v. Peari Dasi* and *Machocrum Sen v. Gaur Hari Gui* (1), unless the lessees be making waste; and if the charge be proved, then the Court can take measures to preserve the property given in lease. There is nothing to prevent the Court appointing the reversioner to be manager, if he be a fit person for the appointment. We modify the orders of the lower Court accordingly. Parties to pay their own costs in these appeals.

Before Mr. Justice Phear and Mr. Justice Hobhouse.

1868
 June 24.

TARASUNDARI BURMONI v, BEHARI LAL ROY*,

Joint Decree—Execution by one of the Judgment Creditors—s. 207 of Act VIII of 1859.

A. & B. obtained a decree against C. A. obtained an order for execution of his share in the amount of the decree. C. pledged immovable property as security to A. who caused it to be sold. B. applied to the Court for her share in the sale proceeds. The Principal Sudder Ameen refused the application. On appeal, *held*, the order for execution ought, in express terms, to have reserved the rights of the other decree-holders to share in the proceeds of the execution. The case was sent back that the Principal Sudder Ameen might apportion the amount realized amongst all the decree-holders.

Rambux Chatlangi and Ramdhan Chatlangi, as purchasers of the share of Damudar Chandra Roy and Ishar Chandra Roy, in a certain decree, took out execution thereof for recovery of Rs. 31,410-9-4, on account of their share in the decree. The judgment-debtors pledged some landed property as security for payment of the same. The Chatlangis caused the property so pledged to be sold.

* Miscellaneous Appeal, No. 194 of 1868, from the decision of the Principal Sudder Ameen of Nuddea.

(1) Cases Nos. 79, 84 201 and 210 of 1862, 7th April 1864.