well knowing that he was not a mooktear of the Court, that he was a relation of the Munsif, and that the inducement he held out to him to join in this exorbitant demand upon the Munsif, was that he would get large sum of Rs. 140 out of the amount which would be so taken from the Munsif, is highly reprehensible. We confirm the order of the Judge, and suspend the pleader Peary Mohun Gooho for a period of one year, to count from the date on which the Judge's order was passed.

Pontifex, J.—I am of the same opinion. In this case it seems to me from the whole conduct of the suspended pleader, if not for the reasons mentioned by the Judge, that it would be undesirable to interfere with the sentence of one year's suspension passed upon the pleader by the District Judge. If in these cases the mooktear is paid for his service by his employer, and in addition receive, without the knowledge of his employer, a percentage or commission from the pleader, it seems to me that the mooktear might be answerable, not only in the Civil Court, but also in the Criminal Court, on the action of his employer, to a charge of obtaining money from him improperly.

B. L. R. Vol. XI, p. 373.

(Original Civil.)

The 14th July 1873.

Before Mr. Justice Macpherson.

S. M. GOLAUPMONEE DOSSEE,

versus

S. M. PROSONOMOYE DOSSEE.

Suit in Forma Pauperis—Next Friend a Pauper—Infant.

A suit can be brought in *forma pauperis* by a next friend who is also a pauper.

THIS was a suit in *forma pauperis*, and was instituted by the father of the plaintiff as her next friend, she being an infant.

Mr. Bonnerjee, for the defendant, took a preliminary objection that a suit in *forma pauperis* could not be brought by a next friend. He referred to Macpherson on Infants, 377, and an *Anonymous case* (1). Such is the practice in England. By the practice of the Supreme Court, no suit could be brought on behalf of any infant without leave previously obtained from the Court on special affidavit stating the circumstances and reasons that it was for the benefit of the infant that the suit should be instituted; see Smoult and Ryan's Rules and Orders, vol. II, pp. 4 & 130. Act VIII of 1859 never intended that a pauper suit should be brought by a next friend.

Mr. Piffard, for the plaintiff, contended that, if that were so, it would create great hardship to infants desirous of suing in *forma pauperis*: it was never intended that a party should be in a worse position because he is an infant, than he would have been, if he had had been of full age. If the present plaintiff had not been an infant, she could have sued in *forma pauperis*, but if the present objection is good, she could not sue. The privilege to sue in *forma pauperis* is the privilege of the person entitled to sue. The plaintiff would not be liable to give security for costs, nor would the next friend, as he would not be liable for anything for which the plaintiff was not liable. [MACPHERSON, J.—That would be allowing him to sue in *forma pauperis*—see Daniell's Chancery Practice, 4th ed., p. 39; *Linsey* v. *Tyrrell* (2).] Then the infant could not sue at all. The Lord Chancellor in that case says there must be some means of enabling the infant to assert her rights. How can she do so except by her next friend?

Mr. Bonnerjee in reply.—By the authorities the rule seems to be that at any rate special circumstances must be shown for allowing such a suit to be brought.

Mr. Piffard asked to examine the father of the plaintiff. He was accordingly called and examined.

Mr. Bonnerjee submitted on the evidence that no special circumstances had been made out. The evidence that he was a pauper was not satisfactory. Unless it is shown that he is a pauper, and that he knows no person of substance whom he can get to

(1) 1 Ves., Jun., 409.
(2) 24 Beav., 124; S. C. on appeal, 2 DeGex & Jones, 7.

bring the suit for him, he ought not to be allowed to sue.

Cur. adv. vult.

Macpherson, J., said that he thought that on the authorities in England a suit on behalf of a pauper by a next friend who was also a pauper could be brought.

Attorney for the Plaintiff: *Mr. Leslie.*

Attorney for the Defendant: *Baboo P. C. Mookerjee.*

B. L. R. Vol. XI, p. 375.

(*Privy Council.*)

The 21st December 1872.

Present:

The Right Hon'ble Sir James Colvile, Sir Barnes Peacock, Sir Montague Smith, Sir Robert P. Collier, and Sir Lawrence Peel.

MUSSAMUT MULLEEKA (*Defendant*),

versus

MUSSAMUT JUMEELA and others (*Plaintiffs*).

[*On Appeal from the High Court of Judicature at Fort William in Bengal.*]

Mahomedan Law—Dower—Amount—Limitation—Regulation III of 1793, s. 14—Practice—Form of Decree—Costs—Act VIII of 1859, s. 98—Compromise.

Where dower is "prompt," limitation does not begin to run until the dower is demanded, or the marriage is dissolved by death or otherwise.

The amount claimed, *viz.*, Rs. 16,25,000, not having been disputed in the Court of original jurisdiction, was allowed.

Quære.—Whether, in the case of a divorce, a cause of action accrues in respect of deferred dower, before the repudiation has become irrevocable, or the dower has been demanded.

THIS was an appeal from two decrees of the High Court, dated 31st May 1864 (1) (Norman and Loch, JJ.) and 10th January 1866 (2) (Bayley and Pundit, JJ.), the latter being given after a remand.

The suit was by the first respondent, Mussamut Jumeela, as widow of one Syud Mahomed, and by the other respondents, as purchasers of shares in her claim, to recover a *denmohur* of 90,000 gold mohurs and Sicca rupees 90,000, making a total of Co.'s Rs. 16,32,000, settled on her by her husband Syud Mahomed, since deceased, the defendants to the suit being another widow (now appellant), and his heir Syud Mahomed Hossein.

The following were the steps taken in the suit:—The plaint was filed in September 1860: in March 1862 the Principal Sudder Ameen held the suit barred by the law of limitation, he considering the dower to be "prompt" and due on the marriage: King, one of the plaintiffs, who had purchased a share in the claim, did not appeal, but the other two plaintiffs, and another purchaser of a share (Lokenath Misser), did so; and, on the 31st May 1864, the High Court held that the dower need not have been sued for during the husband's life, and remanded the case for an enquiry as to the amount of the dower.

The defendant, Mussamut Mulleeka, and Syud Mahomed Hossein both appealed against that decree to Her Majesty in Council, but in the meantime the trial under the remand went on, and the Principal Sudder Ameen decreed the suit for the amount claimed in favor of the widow and King and Summunt Koonwaree. Mussamut Mulleeka and Syud Mahomed Hossein both appealed to the High Court, but before the appeal came on, the latter, so far as he was concerned, compromised all matters in difference in the suit. On the 10th January 1866, the High Court having dismissed the appeal, Mussamut Mulleeka appealed to Her Majesty in Council against that decree also.

The facts of the case were these:—The respondent Jumeela was married in 1833 to Syud Mahomed, who was said to be dewan to the Maharajah of Korruckpore; but as to this there was some doubt.

Disputes arose between the husband and wife about three years after the marriage,

(1) W. R., Jan. to July 1864, 252.
(2) 5 W. R. 28.