

alter any right of reimbursing themselves from under-holders which they might possess. In the case of ryots, all liabilities are required by law to be consolidated and included in the pottah, and a liability beyond the stipulated rent could not be urged; but this does not seem to be so in regard to intermediate holders, and, at any rate, the general engagement to comply with the laws of the different Courts we take to be an acceptance of the criminal and other liabilities attached to the land. It would be no forced construction to include under these terms the liability to forward the dâk imposed by the old custom and law. If, then, the defendant was liable for the dâk service under the old law, we are of opinion that he is liable to pay to plaintiff the dâk charges under the new law. But, as there has been no issue on the fact, we concede to him a remand to find whether, in fact, he bore the dâk service charges under the old law. If his petition regarding the dâk is genuine, and he cannot show that he got credit from the zemindar for the amount expended by him, this case must be given against him.

The 26th August 1865.

Present :

The Hon'ble G. Campbell and F. A. Glover,
Puisne Judges.

**Mahomedan Law of Husband and Wife—
Purchase by Wife.**

Case No. 1372 of 1865.

Special Appeal from a decision passed by the Additional Principal Sudder Ameen of East Burdwan, dated the 14th February 1865, modifying a decision passed by the Sudder Ameen of that District, dated the 25th January 1864.

Shaikh Nasoo and another (Plaintiffs),
Appellants,

versus

Mahatal Bebee and others (Defendants),
Respondents.

Baboo Rajendur Misser for Appellants.

Baboo Greeja Sunkur Mojoomdar and Moulvie Syed Murhumut Hossein for Respondents.

Under the Mahomedan law of husband and wife, a wife may (except with any fraudulent intent) purchase property as her own, during her husband's life-time, with money given to her by him on account of dower.

THIS is a Mahomedan case. Plaintiffs claim as heirs against the widow certain property bought by her as her own many years before her husband's death. Her dower deed is not proved; but it is found as a fact that the husband gave her the money on account of dower, and that she herself bought the property. Under the Mahomedan law of husband and wife, there can be no doubt that, in the absence of any proof of fraudulent intent, this is quite sufficient, and, as against the heirs, there can be no fraud when these transactions took place. The appeal is dismissed with costs.

Respondent makes a cross-appeal respecting her right to retain the remaining property for a balance of dower; but, that not being proved, there is no ground, and the cross-appeal is rejected.

The 26th August 1865.

Present :

The Hon'ble C. Steer and Shumbhoonath Pundit, *Puisne Judges.*

Jurisdiction (of Small Cause Court)—Special Appeal—Suit for damages without allegation of special pecuniary damage.

Case No. 1194 of 1865.

Special Appeal from a decision passed by the Judge of Tipperah, dated the 4th February 1865, reversing a decision passed by the Moon-siff of that District, dated the 29th November 1864.

Raj Chunder Chuckerbutty and others
(Defendants), *Appellants,*

versus

Punchanun Surmah Chowdhry (Plaintiff),
Respondent.

Baboo Kalee Kishen Sein for Appellants.

Baboo Nil Madhub Sein for Respondent.

A Small Cause Court cannot take cognizance of a suit for damages under 500 rupees, where there is no allegation in the plaint that any special damage of a pecuniary nature has resulted from the injury complained of.

A special appeal lies in such a case.

An objection was made that, the present suit being one for damages under 500 rupees, an appeal will not lie. We overrule this, as there is no allegation in the plaint that any special damage of a pecuniary nature has resulted from the injury complained