cial Commissioner refused to disturb the defendant's possession.

This decision appears to us clearly wrong. The special appellant holds a mokurruree lease from the zemindar. The defendant claims to hold a similar lease. He admits the zemindar's general rights, but puts forward the special plea that those rights were barred by the grant to him of a mokurruree lease long prior to that set up by the plaintiff. Under these circumstances, the *onus* of proof was not upon the plaintiff to show that the defendant's lease was temporary, but upon the defendant to show that it was mokurruree ; and a bare possession for 20 years or more would not shift the burthen, or give the defendant a mokurruree title against his landlord, without clear proof of his right to hold at fixed rates. This is not a suit under Act X. of 1859, where a plea of holding at one and the same rate, since the settlement might be supported by the presumption arising from 20 years' continuous payment at that rate, but one in which the tenant fixes the date of his lease in a certain year.

The Judicial Commissioner observes that the defendant's possession for 20 years has been proved by the plaintiff's own witnesses, but we remark that these witnesses speak of this possession as being that of an ijaradar or farmer only, so that their evidence in no way benefits the defendant's case.

The case must go back, in order that the Judicial Commissioner may find whether or not the defendant holds his land on a valid mokurruree title from the zemindar. If he does not, the plaintiff, who is admitted by the zemindar to hold in that manner, will be entitled to take possession of the land. Costs will follow the result.

---

The 3rd June 1868.

*Present :*

The Hon'ble H. V. Bayley and W. Markby, *Judges.*

**Contribution—Mode of enforcing the obligation—Limitation—Keeping alive a separate decree.**

Case No. 470 of 1867.

*Miscellaneous Appeal from an order passed by the Judge of Rajshahye, dated the 7th June 1867, affirming an order passed by the Principal Sudder Ameen of that District, dated the 12th January 1867.*

Khema Debia and others (Decree-holders), *Appellants,*

*versus*

Kumola Kant Bukshee and others (Judgment-debtors), *Respondents.*

*Baboo Issur Chunder Chuckerbutty* for Appellants.

No one for Respondents.

Where one person jointly interested with others in land is compelled to pay Government revenue in excess of his proper share, each co-sharer is bound to refund so much as he ought himself to have paid ; and this objection is to be enforced by a suit against all the co-sharers in which the amount of their several liabilities is to be declared by the Court.

HELD that, where a decree is not a joint one against all the defendants, but a separate one as against each batch of defendants, the proceedings against one batch have no effect towards keeping alive the separate decrees against other batches.

*Markby, J.*—THE appellants in this case are seeking to execute a decree, dated 21st March 1863, which declares that certain of the defendants in the suit, being six in number, should pay to the plaintiff Rupees 749-0-9 ; that certain others of the defendants, being five in number, should pay to the plaintiff Rupees 91-8-2 ; that certain others of the defendants, being three in number, should pay to the plaintiff Rupees 60-8-6 ; and that the remainder of the defendants, being seven in number, should pay the sum of Rupees 280-0-9 ; in all, Rupees 1,181-5-0, which, with costs in proportion, the defendants were to pay *according to their respective shares.*

The suit was brought by one of several persons jointly interested in land against his co-sharers, the ground of his action being that he had been compelled to pay the whole Government revenue due in respect of the land, and he now sought to recover from his co-sharers that which he had paid in excess of his own proper share. The result of the suit was that he got a decree in his favor in the form stated above.

The obligation of the co-sharers in some way or other to satisfy this demand is well known, though there has been occasionally some difficulty and some misunderstanding as to the exact nature of the obligation, the mode in which it arises, and the mode in which it is to be enforced.

The mode in which the obligation arises is no longer of any importance as soon as it is ascertained what the obligation is, and the mode in which it is to be enforced ; and