

chand about six years ago, he was not at liberty to impeach the plaintiff's title, which was derived from Khemchand. As the District Judge in appeal has not inquired into the truth of this allegation, the case must be remanded for his finding upon it ; and if he finds it in the affirmative, he should affirm the Munsif's decree.

1867.
Sákalchand,
Savaichand
v.
Dayábhái
Ichháchand.

We order the costs to follow the final decision.

Decree reversed and suit remanded.

Special Appeal No. 61 of 1867.

March 12.

RAMCHANDRA DIKSHIT..... *Appellant.*
SAVITRIBAI..... *Respondent*

Hindu Widow—Maintenance—Contribution—Small Cause Court.

A Hindu widow, who had been supported by her father-in-law, after his death sued his eldest son for maintenance, and obtained a decree for Rs. 150, notwithstanding the defendant's objection that, being one of three brothers who inherited their father's estate, he was not solely liable for the maintenance claimed :—

Held that, as this was a Small Cause Court suit, an appeal did not lie.

The maintenance of a widow is, by Hindu law, a charge upon the whole estate, and, therefore, upon every part thereof.

The defendant might have the question raised by him decided, by suing his brothers for contribution.

THIS was a special Appeal from the decision of F. Lloyd Agent for Sardárs in the Dakhan, affirming, in appeal the decree of A. Deniel, Assistant Agent.

The original suit was brought by Sávitribái, the widow of Mahálev Dikshit, for appears of maintenance for three years, from the 6th of December 1862 to the 6th of December 1865. at the rate of Rs. 100 a year : alleging that Moreshvar Dikshit, her husband's father, had supported her up to the date of his death, the 6th of December 1862 ; that the defendant, as eldest son, inherited Moreshvar's estate ; and that she had no means of subsistence.

The defendant (amongst other things) contended that, as he was one of three brothers, the suit did not lie against him alone.

1867.
Rāmebandra
Dikshīt
v.
Savitribāi.

The Assistant Agent held the plaintiff entitled to maintenance, at the rate of Rs. 50 per annum, and passed a decree for Rs. 150.

The plaintiff appealed to the Agent, on the ground that the sum awarded was not sufficient for the maintenance. The defendant also appealed, on the ground that his two brothers, who shared with him the hereditary estate, should have been made parties, and that he was not liable for the whole of the subsistence allowance awarded to the plaintiff, but only for his one-third share thereof.

The Agent held that the amount, though small, was a fair one under the circumstances, and confirmed the lower court's decree.

Vishvanath Narayan Mandlik for the appellant.

Pandurang Balibhadra for the respondent.

COUCH, C.J. :—By Hindu law the maintenance of a widow is a charge upon the whole estate, and, therefore, upon every part thereof. The special appellant is liable for the maintenance.

He may sue his brothers for contribution; but we cannot now decide that question, which would properly arise in a suit between the appellant and his brothers.

However, as this is a Small Cause Court suit, no appeal lies to this Court.

NEWTON, J. concurred.

Appeal dismissed with costs.

NOTE.—A suit by a co-sharer for contribution in respect of Government revenue paid by him in excess of his own quota, is not cognisable by a Small Cause Court; as the extent of the share in respect of which contribution is sought cannot be determined without deciding a question of title: *Kaleenath Roy v. Nitaram Puramanick, per Peacock C. J.*, and *Jackson, J.*: 7 Calc. W. Rep. Civ. R. 32.—Ed.