

jurisdiction. Its language is that nothing in the Act shall be held to take away the jurisdiction which can be exercised by Military Courts of Requests.

1863.
November 16,
R. C. No. 14
of 1863.

It must therefore be construed with reference to the other jurisdiction-sections (sections 3 and 4); and so construed, and, considering what the object and intention of the Act were, we come to the conclusion that it leaves in full force the provision in the Statute for the exclusive cognizance by Military Courts of Requests of suits like that in the present case.

APPELLATE JURISDICTION (a)

Special Appeal No. 156 of 1863.

RAMEN NAYAR.....Appellant.

KANDAPUNI NAYAR.....Respondent.

A kánam-holder who denies his janmi's title forfeits his right to hold for twelve years.

Special Appeal No. 27 of 1862 (Supra, p. 14) followed.

THIS was a Special Appeal from the decision of K. Kellu Náyar, the Principal Sadr Amin of Calicut, in Appeal Suit No. 659 of 1861, affirming the decree of the District Munsif of Calicut in Original Suit No. 290 of 1859. This suit was brought by a janmi to redeem a kánam mortgage made in 1850. The defendant denied the janmi's title.

1863.
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of 1863.

Karunagara Manavan, for the appellant, the defendant, contended that his client, even though he were a kánam-holder under the plaintiff, could not be ousted before the lapse of twelve years from the date of the kánam.

Mayne for the respondent, the plaintiff, was not called upon.

The Court delivered the following

JUDGMENT :—In *Special Appeal No. 27 of 1862 (b)* the Chief Justice and Mr. Justice Phillips dismissed the Special Appeal of the second defendant, who had alleged a title altogether adverse to the plaintiff who alleged the first

(a) Present : Frere and Holloway, JJ.

(b) *Supra*, p. 14.

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defendant to be a holder on kánam, and the second his assignee. The twelve years had, according to the plaintiff's showing, not run. There is no valid distinction between the hostile title set up by the assignee and one set up by the person found to be the original tenant on kánam. Following therefore this latter case, which, moreover, appears to us to be consistent with the doctrine long established in Malabar that the holder on kánam who denies his janmi's title entirely forfeits his right to hold for twelve years, we dismiss this Special Appeal with costs.

Appeal dismissed.

APPELLATE JURISDICTION (a)

Referred Case No. 17 of 1863.

PANCHANÁDA CHETTI against RÁMAN CHETTI and others.

Where a Court of Small Causes delivered final judgment and decree on the whole matter in dispute and more than a year but less than three years had elapsed from the date of the decree without any proceeding having been taken upon it :—*Held* that Act XIV of 1859, Sec. 20 applied, and that the plaintiff's application for a warrant in execution of the decree was not barred by lapse of time.

1863.
November 23.
R. C. No. 17
of 1863.

CASE referred for the opinion of the High Court by R. B. Swintou, Judge of the Small Causes Court of Tanjore.

No counsel were instructed.

The Court delivered the following

JUDGMENT :—The question submitted for the decision of the High Court is,

“Whether the period of limitation applicable to a decree of a Court of Small Causes constituted under Act XLII of 1860, is three years as laid down in Section 20, Act XIV of 1859(b), or the period of one year under Section 22 of the same Act.”

(a) Present : Scotland, C. J. and Frere, J.

(b) This section enacts that “no process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree or order, or to keep the same in force within three years next preceding the application for such execution.

(c) This section enacts that no process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority, unless some proceeding shall have been taken to enforce such decision or award, or to keep the same in force within one year next preceding the application.