

APPELLATE JURISDICTION (a)

*Special Appeal No. 451 of 1861.*MAKUDU RAVULLAN/..... *Appellant.*MASTÁN SÁHIB and others.....*Respondents.*

On a Special Appeal the respondent has no right to take any objection to the decision appealed against which he might have taken if he had preferred a separate special appeal.

Issur Ghose v. Hills (1 Ind. Jur. 25) not followed.

1862.
December 6.
S. A. No. 451
of 1861.

THIS appeal involved several complicated questions arising from the Muhammadan law of inheritance.

Tirumalachariyar for the appellant, the plaintiff.

Branson, for the respondents, the first and fourth defendants, submitted that upon the authority of *Issur Ghose v. Hills*(b), he had a right to take any objection on the part of the respondents to the decision of the lower Court, which he might have taken if he had preferred a separate special appeal. He admitted that such had not hitherto been the practice of this Court. The right was here allowed to be exercised only in regular appeals. It had been denied to respondents in special appeals. But he submitted whether after the ruling by the High Court at Calcutta, the Court would not allow the matter to be reconsidered ; and in the event of his being permitted to do so, he should submit that the appellant himself had no title.

PER CURIAM :—We are not prepared to depart from our practice.

The case then proceeded on the points taken in appeal, and resulted in a remand for further investigation.(c)

(a) Present Strange and Phillips, J J.

(b) 1 Ind. Jur. 25, 29. This was (c) *Ex relatione* Mr. Branson.
an appeal from a decision under Act.
X of 1859.