

Anantha Charry, for Venkatapathy Row, for the respondent, the plaintiff.

1870.
July 18.
R. A. No. 56
of 1870.

The Court delivered the following

JUDGMENT:—It is a fatal preliminary objection to this appeal that it is against a decree in accordance with an award made under a submission to arbitration in the suit. Under Sections 323, 324 and 325, of the Civil Procedure Code, the Court before which the suit is pending has the power to set aside the award on the ground of corruption or misconduct on the part of the arbitrators or umpire, and the latter section provides that, if an application to set aside an award upon such ground shall be refused, the Court shall proceed to pass judgment according to the award, and in every such case the judgment shall be final.

Here the application to set aside the award on the ground of corruption and misconduct appears to have been fully heard and refused; and judgment passed in accordance with the award. It follows that the appeal does not lie and must be dismissed with costs.

Appeal dismissed.

Appellate Jurisdiction. (a)

Special Appeal No. 297 of 1864.

Civil Mis. Petition No. 218 of 1869.

COOMARA YETTAPA NAIKAR, by his }
Guardian MOOTTOOSAWMY NAIKAR } *Special Appellant.*

VENKATESWARA YETTIA.....*Special Respondent.*

The illegitimate son of a Zemindar of the Sudra caste is entitled to maintenance, and the maintenance is a charge upon the revenues of the Zemindary.

THIS was a Special Appeal from the decision of W. Hodgson, the Acting Civil Judge of Tinnevelly, in Regular Appeal No. 328 of 1863, reversing the Decree of the Court of the Principal Sadr Amin of Tinnevelly, in Original Suit No. 65 of 1863.

1870.
July 27.
S. A. No. 297
of 1864.
C. M. P. No.
218 of 1869.

The Advocate General and Srlnivása Cháriyár, for the special appellant, the defendant's heir.

Mayne, for the special respondent, the plaintiff.

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

1870.

July 27.

S. A. No. 297
of 1864.
C. M. P. No.
218 of 1869.

The facts appear from the following

JUDGMENT:—This case now comes before us under the order determining the appeal to Her Majesty in Council, which declares that the respondent is the illegitimate son of the former Zemindar, Coomara Naikar, and as such is entitled to maintenance, and requires this Court to determine whether, regard being had to the above declaration, the respondent is entitled to receive maintenance out of the income of the Zemindary, and in that case to decree such maintenance at the rate of Rs. 2,500 per annum.

It is clear upon the authorities quoted (a) that im-
(a) 7 Moore's Indian Appeals 18 partible family estate is a fund
9 do. do. do. 66. upon which maintenance may properly
Judgment of the Lords of be charged. The Advocate
the Privy Council on the General, who appeared for the
appeal of Katchekalayana Zemindar, did not dispute that the
Rungappa Kalakka Tola course of decisions had settled the
Oodia, from the Decree of question. This being so there will
the High Court of Judica- be an order declaring the respondent (the plaintiff) to be
ture at Madras, delivered entitled to receive the maintenance of Rs. 2,500 per annum,
24th February 1869. and that the same is a charge on the Revenues of the Zemindary,
and ordering the appellant (the defendant's heir) in
pursuance of the order of Her Majesty in Council to pay to
the respondent (the plaintiff) the said yearly maintenance
by equal half-yearly payments, and forthwith the amount
if (any) now due on account of the said maintenance.