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plaint of the wife is the Court within the jurisdiction of which he may reside. The language of section 488 of the Code of Criminal Procedure itself favours this view ; and it seems to us that, if the principle which underlies section 177 of the Code may be applied to this case, the complaint should be enquired into by the Court within the local limits of whose jurisdiction the husband neglected or refused to maintain his wife. Let the record be sent back with this expression of our opinion.

S. C. B.

APPELLATE CIVIL.

Before Mr. Justice O'Kinealy and Mr. Justice Hill.

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 May 28
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GRISH CHUNDER SASMAL (DEFENDANT) v. DWARKA NATH DINDA
 AND OTHERS (PLAINTIFFS.)^a

*Parties—Adding Parties to Suit—Civil Procedure Code (Act XIV of 1882),
 section 32—Court adding a defendant—Limitation.*

No question of limitation arises where a Court, of its own motion, under section 32 of the Civil Procedure Code, adds a party defendant to a suit. *Oriental Bank Corporation v. Charriol* (1), followed.

THIS suit was brought to recover money due on a mortgage bond, dated the 12th Jaista 1288 (24th May 1881). On the 25th Baisack 1294 (7th May 1887) the appellant, defendant No. 7, took a usufructuary mortgage of the equity of redemption in the mortgaged lands and of certain other properties. When the suit was instituted he was not made a party ; but he was added by the order of the Court under section 32 of the Civil Procedure Code. He put in a written statement, pleading that the suit was barred by limitation. The Munsif allowed the plea, and dismissed the suit as against that defendant, and the defendant No. 6, who had improperly been made a party to the suit, but decreed it as against the other defendants. On appeal to the

^a Appeal from Appellate Decree No. 1645 of 1895, against the decision of Babu Rajendro Kumar Bose, Subordinate Judge of Midnapur, dated the 31st July 1895, reversing the decision of Babu Debendro Mohun Sen, Munsif of Contai, dated the 18th February 1895.

Subordinate Judge, the decree was varied ; the Subordinate Judge holding that the suit was not barred, as there had been an acknowledgment of the debt by the other defendants in a bond dated 28th Assin 1292 (13th October 1885), and that the plaintiffs were entitled to count limitation from that date.

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The defendant No. 7 appealed.

Babu Jagat Chunder Banerjee appeared for the appellant.

Mr. H. E. Mendes for the respondents.

C. A. V.

The judgment of the Court (O'KINEALY and HILL, JJ.) was as follows :—

This is a suit for money due on a simple mortgage bond dated the 12th Jaista 1288 ; and the only point in the appeal is in regard to the defendant No. 7, who became the mortgagee of the equity of redemption after the plaintiffs' mortgage. This defendant was not originally on the record, but was, in the course of the suit, added by the first Court under section 32 of the Code.

It has been held in the case of *Oriental Bank Corporation v. Charriot* (1) that where a Court, acting on information brought to its notice, adds a party who, it thinks, is necessary for the disposal of the suit, no question of limitation arises.

The defendant No. 7 in this case was, under the Transfer of Property Act, a party necessary for the final disposal of the suit. We, therefore, think that no question of limitation arises ; and the mortgage in suit must be enforced against the defendant No. 7, as well as the other defendants, except the defendant No. 6.

The appeal is, therefore, dismissed with costs.

H. W.

Appeal dismissed.

(1) I. L. R., 12 Calc., 642.