

(1915) 11 BOM CK 0008
In the Bombay High Court

Sitabai Raghunath Vaidya

APPELLANT

Vs

Laxmibai Vyankatesh Vaidya

RESPONDENT

Date of Decision : 30-11-1915

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 16(d)

Citation : AIR 1916 Bom 272 : 32 Ind. Cas. 985

Hon'ble Judges : Basil Scott, C.J.;Beaman, J

Bench : Division Bench

Judgement

Basil Scott, C.J.—The question is whether this suit can rightly be held to fall within the scope of Section 16(d) of the Civil Procedure Code. The learned Judge has held that it does not. The suit is one by the mother of the deceased husband of the 1st defendant against that defendant and her father. Both the defendants live in a Native State, and, therefore, in respect of personal claims they will not be liable to the jurisdiction of the Court unless the suit falls within Section 16. The suit is for a declaration that the plaintiff is entitled to a maintenance allowance of a certain amount for her life against the 1st defendant and for residence and pilgrimage expenses and other claims and also for stridhan property, and one of the objects of the suit, which is set out in the prayer, is that the liability to pay the sums claimed should be made a charge on the 1st defendant's land in the Inam village in the Bhimthadi Taluka of the Poona District and on her share also in the said village. The 1st defendant is sued as the person to whom the family estate has come upon death of her husband, whose mother is the plaintiff Sitabai. On the plaint as framed, the question which has to be decided before the Court will be enabled to pass a decree, is whether or not the plaintiff is entitled to a right to or interest in, Immovable property in the Bhimthadi Taluka by way of charge as security for the maintenance which may be decreed. That being the question to be determined, it is a question directly within the terms of Section 16(d) of the Civil Procedure Code. We, therefore, think that the learned Judge was in error We must set aside his order and direct that the suit do proceed against the 1st defendant, but we think that the Court had no

jurisdiction against the 2nd defendant. Costs costs in the cause.