

Nurbibi Vs. Husen Lal

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Court : Mumbai

Decided On : Sep-06-1883

Reported in : (1883)ILR7Bom537

Judge : West and ;Nanabhai Haridas, JJ.

Appellant : Nurbibi

Respondent : Husen Lal

Judgement :

West, J.

1. The obligation of a father to support his child is one imposed on him by the law of the family in some form or other, either of civil or criminal liability see Bazeley v. Forder L.R. 3. Q.B. 564 under every civilized system. If the father fails to support a child, it is the mother's duty to nurture it if she can. Whether she can recover the amount necessary for this purpose from the father according to the Mahomedan law is a question that the court will have to try. But the father's obligation to recoup the mother and to provide money for the future maintenance of his child by a wife whom he has divorced during her pregnancy, is one which, if it subsists, does not arise from contract, but is imposed on the father by the law, without any bargain or assent on his part. The suit, therefore, in this case is not one cognizable by a small Cause Court, but by the ordinary Civil Court, and the order for returning the plaint made by the Subordinate Judge should be set aside, and the suit dealt with on its

merits.

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