

A DIGEST  
OF THE  
HINDU LAW  
OF  
INHERITANCE, PARTITION, AND ADOPTION;

EMBODYING THE REPLIES OF THE SĀSTRIS  
IN THE COURTS OF THE BOMBAY PRESIDENCY,

WITH  
INTRODUCTIONS AND NOTES

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THIRD EDITION.  
VOL. I.

[Registered under Act XXV. of 1867.]

Bombay:  
PRINTED AT THE  
EDUCATION SOCIETY'S PRESS, BYCULLA.

1884.

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and rather widely-ranging criticism. Those sources, however, or at least the more ancient ones, are looked on as of so sacred a character; the references to them by the accepted guides of ethical and legal thought, are so frequent and so submissive; the tendency of custom, even where it has diverged from their teaching, is so strong to revert to obedience to their rational commands, (a) that a study of them, some comprehension of their character and teachings, is indispensable as a foundation for a true mastery of the practical law of to-day.

## II.—SOURCES OF THE HINDŪ LAW.

### I.—On the Authorities of the HindŪ Law as prevailing in the Bombay Presidency.

THE authorities on the written HindŪ Law in Western India are, according to Colebrooke, (b) the Mitāksharā of Vijñāneśvara and the Mayūkhas, especially the Vyavahāramayūkha of Nilakanṭha. Morley (c) adds the Vyavahāramādhava of Nirayasinḍhu, Smritikaustubha, Hemādri, Dattakamṁmāṁsā, and Dattakachandrikā. The quotations of the Śāstris, appended to their Vyavasthās, which perhaps afford the most trustworthy information on the subject, show that the following works are considered by them the sources of the written law on this side of India:—

1. The Mitāksharā of Vijñāneśvara,
2. The Mayūkhas of Nilakanṭha, and especially the Vyavahāramayūkha,
3. The Vīramitrodaya of Mitramiśra,

(a) Compare the remarks of Innes, J., as to the submission of the non-Aryan tribes to the HindŪ Law in *Multu Vaduganadha Tévar v. Dora Singha Tévar*, I. L. R. 3 Mad. at p. 309.

(b) Strange, *El. H. L.*, 4th ed., p. 318. Preface to *Treatises on Inheritance*, Stokes's H. L. B., p. 173.

(c) Digest II. CCXXII.

- 4 and 5. The Dattakamimāṁsā of Nandapaṇḍita and the Dattakachandrikā of [Devanḍabhaṭṭa] Kubera. (a)
6. The Nirṇayasindhu of Kamalākara,
- 7 and 8. The Dharmasindhu of Kāśinātha Upādhyāya and the Saṁskārakaustubha of Anantadeva,
- 9, and lastly, in certain cases the Dharmasāstras, or the Smṛitis and Upasmṛitis, which are considered to be Rishivākyaṇi, 'sayings of the sages,' together with their commentaries. These results have been corroborated by the concurrent testimony of those Law Officers and Paṇḍits whom we have had an opportunity of consulting.

Relative position.

2. The relative position of these works to each other may be described as follows:—In the Marāṭhā country and in Northern Kānara the doctrines of the Mitāksharā are paramount; the Vyavahāramayūkha, the Viramitrodaya and the rest are to be used as secondary authorities only. They serve to illustrate the Mitāksharā and to supplement it. But they may be followed so far only as their doctrines do not stand in opposition to the express precepts or to the general principles of the Mitāksharā. (b) Among the secondary authorities, the Vyavahāramayūkha takes precedence of the Viramitrodaya. (c) The Dattakamimāṁsā and the Dattaka-

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(a) Rao Saheb V. N. Maṇḍlik, Vyavahāramayūkha and Yājñ. Introd., p. lxxii., is right in objecting to Mr. Sutherland's conjecture, which attributes the authorship of the Dattakachandrikā to Devanḍabhaṭṭa.

(b) See *The Collector of Madura v. Mooloo Ramalinga Sathupathy*, 12, M. I. A. 438; *Nārāyan Bābāji v. Nūnā Manohar*, 7 Bom. H. C. R. 167, 169, A. C. J.; *Krishnāji Vyankatesh v. Pāndurang*, 12 Ibid. 65; *Rāhi v. Govind valad Tejá*, In. L. R. 1 Bom. 106; *Lakshman Dādā Nāik v. Rāmchandra Dādā Nāik*, 565 S. C. in appeal to P. C. L. R. 7 I. A. at p. 191; *Ramkoonwur v. Ummer*, 1 Borr. R. 460.

(c) See Colebrooke's Introduction to Treatises on Inh., Stokes's H. L. B. 173, 176, 178; *Gridhari Lall v. The Bengal Govt.*, 12 M. I. A. 646.