

Cambridge University Press
978-1-108-05521-5 - Two Treatises on the Hindu Law of Inheritance
Jimutavahana and Vijnaneshwara Translated by H.T. Colebrooke
Frontmatter
[More information](#)

CAMBRIDGE LIBRARY COLLECTION

Books of enduring scholarly value

Perspectives from the Royal Asiatic Society

A long-standing European fascination with Asia, from the Middle East to China and Japan, came more sharply into focus during the early modern period, as voyages of exploration gave rise to commercial enterprises such as the East India companies, and their attendant colonial activities. This series is a collaborative venture between the Cambridge Library Collection and the Royal Asiatic Society of Great Britain and Ireland, founded in 1823. The series reissues works from the Royal Asiatic Society’s extensive library of rare books and sponsored publications that shed light on eighteenth- and nineteenth-century European responses to the cultures of the Middle East and Asia. The selection covers Asian languages, literature, religions, philosophy, historiography, law, mathematics and science, as studied and translated by Europeans and presented for Western readers.

Two Treatises on the Hindu Law of Inheritance

Published in 1810, this work was one of the key translations of texts that formed part of the law books of the Anglo-Indian civil courts under the East India Company. A successor to the orientalist and jurist Sir William Jones, Henry Thomas Colebrooke (1765–1837) had taught himself Sanskrit and became involved in studying and trying to codify Hindu law to apply it in the civil law courts where he held superior judicial positions. Here he translates two medieval texts, Jimutavahana’s *Dayabhaga* and part of Vijnaneshwara’s *Mitakshara*, which formalised an area of legal theory, serving as the principal guides in, respectively, Bengal and the rest of India for laws on inheritance until the Hindu Succession Act of 1956. Despite errors later identified in the translation, Colebrooke’s work stands as an important scholarly undertaking, reflecting his desire to promote knowledge of Hindu law, culture and heritage throughout the English-speaking world.

Cambridge University Press has long been a pioneer in the reissuing of out-of-print titles from its own backlist, producing digital reprints of books that are still sought after by scholars and students but could not be reprinted economically using traditional technology. The Cambridge Library Collection extends this activity to a wider range of books which are still of importance to researchers and professionals, either for the source material they contain, or as landmarks in the history of their academic discipline.

Drawing from the world-renowned collections in the Cambridge University Library and other partner libraries, and guided by the advice of experts in each subject area, Cambridge University Press is using state-of-the-art scanning machines in its own Printing House to capture the content of each book selected for inclusion. The files are processed to give a consistently clear, crisp image, and the books finished to the high quality standard for which the Press is recognised around the world. The latest print-on-demand technology ensures that the books will remain available indefinitely, and that orders for single or multiple copies can quickly be supplied.

The Cambridge Library Collection brings back to life books of enduring scholarly value (including out-of-copyright works originally issued by other publishers) across a wide range of disciplines in the humanities and social sciences and in science and technology.

Two Treatises on the Hindu Law of Inheritance

JIMUTAVAHANA
AND VIJNANESHWARA
TRANSLATED BY H.T. COLEBROOKE



Cambridge University Press
978-1-108-05521-5 - Two Treatises on the Hindu Law of Inheritance
Jimutavahana and Vijnaneshwara Translated by H.T. Colebrooke
Frontmatter
[More information](#)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town,
Singapore, São Paulo, Delhi, Mexico City

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org
Information on this title: www.cambridge.org/9781108055215

© in this compilation Cambridge University Press 2013

This edition first published 1810
This digitally printed version 2013

ISBN 978-1-108-05521-5 Paperback

This book reproduces the text of the original edition. The content and language reflect the beliefs, practices and terminology of their time, and have not been updated.

Cambridge University Press wishes to make clear that the book, unless originally published by Cambridge, is not being republished by, in association or collaboration with, or with the endorsement or approval of, the original publisher or its successors in title.

TWO

TREATISES

ON THE

HINDU

LAW OF INHERITANCE.

Translated by
H. T. COLEBROOKE, ESQUIRE.

CALCUTTA:

PRINTED BY A. H. HUBBARD, AT THE HINDOOSTANEE PRESS.

—
1810

Cambridge University Press
978-1-108-05521-5 - Two Treatises on the Hindu Law of Inheritance
Jimutavahana and Vijnaneshwara Translated by H.T. Colebrooke
Frontmatter
[More information](#)

PREFACE.



NO branch of jurisprudence is more important than the law of successions or inheritance; as it constitutes that part of any national system of laws, which is the most peculiar and distinct, and which is of most frequent use and extensive application.

In the law of contracts, the rules of decision, observed in the jurisprudence of different countries, are in general dictated by reason and good sense; and rise naturally, though not always obviously, from the plain maxims of equity and right.

As to the criminal law, mankind are in general agreed in regard to the nature of crimes: and, although some diversity necessarily result from the exigencies of different states of society, leading to considerable variation in the catalogue of offences, and in the scale of relative guilt and consequent punishment; yet the fundamental principles are unaltered, and may perhaps be equally traced in every known scheme of exemplary and retributive justice.

But the rules of succession to property, being in their nature arbitrary, are in all systems of law merely conventional. Admitting even that the succession of the offspring to the parent is so obvious as almost to present a natural and universal law; yet this very first rule is so variously modified by the usages of different nations, that its application at least must be acknowledged to be founded on consent rather than on reasoning. In the laws of one people the rights of primogeniture are established; in those of another the equal succes-

sion of all the male offspring prevails ; while the rest allow the participation of the female with the male issue, some in equal, other in unequal proportions. Succession by right of representation, and the claim of descendants to inherit in the order of proximity, have been respectively established in various nations, according to the degree of favour, with which they have viewed those opposite pretensions. Proceeding from linear to collateral succession, the diversity of laws prevailing among different nations, is yet greater, and still more forcibly argues the arbitrariness of the rules. Nor is it indeed practicable to reduce the rules of succession as actually established in any existing body of law, to a general or leading principle, unless by the assumption of some maxim not necessarily nor naturally connected with the canons of inheritance.

In proportion then, as the law of successions is arbitrary and irreducible to fixed and general principles, it is complex and intricate in its provisions ; and requires, on the part of those entrusted with the administration of justice, a previous preparation by study ; for its rules and maxims cannot be rightly understood, when only hastily consulted as occasions arise. Those occasions are of daily and of hourly occurrence : and, on this account, that branch of law should be carefully and diligently studied.

In the *Hindu* jurisprudence in particular, it is the branch of law, which specially and almost exclusively merits the attention of those who are qualifying themselves for the line of service in which it will become their duty to administer justice to our *Hindu* subjects, according to their own laws.

A very ample compilation on this subject is included in the *Digest of Hindu* law, prepared by JAGANNATHA under the directions of Sir WILLIAM JONES. But copious as that work is, it does not supersede the necessity of further aid to the study of the *Hindu* law of inheritance. In the preface to the translation of the *Digest*, I hinted an opinion unfavorable to the arrangement of it, as it has been executed by the native compiler. I have been confirmed in that opinion of the compilation, since its publication ; and indeed the author's method of discussing together the discordant opinions maintained by the lawyers of the several schools, without distinguishing in an intelligible manner which of them is the received doctrine of each school, but on the contrary leaving it uncertain whether any of the opinions stated by him do actually prevail, or which

P R E F A C E.

iii

doctrine must now be considered to be in force and which obsolete, renders his work of little utility to persons conversant with the law, and of still less service to those who are not versed in *Indian* jurisprudence ; especially to the *English* reader, for whose use, through the medium of translation, the work was particularly intended.

Entertaining this opinion of it, I long ago undertook a new compilation of the law of successions with other collections of *Hindu* law, under the sanction of the government of *Bengal*, for preparing for publication a supplementary Digest of such parts of the law as I might consider to be most useful. Its final completion and publication have been hitherto delayed by important avocations ; and it has been judged mean time advisable to offer to the publick in a detached form, a complete translation of two works materially connected with that compilation.

They are the standard authorities of the *Hindu* law of inheritance in the schools of *Benares* and *Bengal* respectively ; and considerable advantage must be derived to the study of this branch of law, from access to those authentick works, in which the entire doctrine of each school, with the reasons and arguments by which it is supported, may be seen at one view and in a connected shape.

In a general compilation, where the authorities are greatly multiplied, and the doctrines of many different schools, and of numerous authors are contrasted and compared, the reader is at a loss to collect the doctrines of a particular school and to follow the train of reasoning by which they are maintained. He is confounded by the perpetual conflict of discordant opinions and jarring deductions ; and by the frequent transition from the positions of one sect to the principles of another. It may be useful then, that such a compilation should be preceded by the separate publication of the most approved works of each school. By exhibiting in an exact translation the text of the author with notes selected from the glosses of his commentators or from the works of other writers of the same school, a correct knowledge of that part of the *Hindu* law ; which is expressly treated by him, will be made more easily attainable, than by trusting solely to a general compilation. The one is best adapted to preparatory

study; the other may afterwards be profitably consulted, when a general, but accurate knowledge has been thus previously obtained by the separate study of a complete body of doctrine.

These considerations determined the publication of the present volume. It comprehends the celebrated treatise of JĪMU TA-VA HANA on successions, which is constantly cited by the lawyers of *Bengal* under the emphatic title of *Dáyabhāga* or “inheritance;” and an extract from the still more celebrated *Mitácshara* comprising so much of this work as relates to inheritance. The range of its authority and influence is far more extensive than that of JĪMU TA-VA HANA’S treatise; for it is received in all the schools of *Hindu* law, from *Benares* to the southern extremity of the peninsula of *India*, as the chief groundwork of the doctrines which they follow, and as an authority from which they rarely dissent.

The works of other eminent writers have, concurrently with the *Mitácshara*, considerable weight in the schools of law which have respectively adopted them; as the *Smṛiti Chandricá** in the south of *India*; the *Chintámaní*, *Retnácara* and *Viváda-chandra*† in *Mit’hilá*; the *Víramitródaya* and *CAMALA’CARA*‡ at *Benares*, and the *Mayúc’ha*§ among the *Maraháttas*: but all agree in generally deferring to the authority of the *Mitácshará*, in frequently appealing to its text, and in rarely and at the same time modestly dissenting from its doctrines on particular questions. The *Bengal* school alone, having taken for its guide JĪMU TA-VA HANA’S treatise, which is on almost every disputed point, opposite in doctrine to the *Mitácshará*, has no deference for its authority. On this account, independently of any other considerations, it would have been necessary to admit into the present volume either his treatise, or some

* By DEVAN’DĀ-BHAT’ĪA. This excellent treatise on judicature is of great and almost paramount authority, as I am informed, in the countries occupied by the *Hindu* nations of *Drávira*, *Tailanga*, and *Carnátá*; inhabiting the greatest part of the peninsula or *Dekhin*.

† *Viváda chintámaní*, *Vyavahára chintámaní*, and other treatises of law by VACHESPATĪ-MIS’RA. *Viváda retnácara*, *Vyavahára retnácara* and other compilations by *Panditas* employed by CHAN’DÉS’IVARA; *Viváda-chandra* by MISARU MIS’RA or rather by his aunt LAC’HIMA or LACSHMI-DE’VÍ.

‡ *Víramitródaya*, an ample and very accurate digest by MITRA MIS’RA. *Viváda-túndana* and other works of CAMALA’CARA.

§ *Vyavahára-mayuc’ha* and other treatises by NÍLACANT HA.

PREFACE.

one of the abridgments of his doctrine which are in use, and of which the best known and most approved is RAGHUNANDANA's *Dāya-tatwa*. But the preference appeared to be decidedly due to the treatise of JĪMU'TA-VA'HANA himself; as well because he was the founder of this school, being the author of the doctrine which it has adopted; as because the subjects, which he discusses, are treated by him with eminent ability and great precision; and for this further reason, that quotations from his work, or references to it, which must become necessary in a general compilation of the *Hindu* law of inheritance, can be but very imperfectly intelligible without the opportunity of consulting the whole text of his close reasoning and ample disquisitions.

Having selected, for reasons which have been here explained, the *Dāyabhāga* of JĪMU'TA-VA'HANA and the *Mitācsharā* on inheritance, for translation and separate publication, I was led in course to draw the chief part of the annotations necessary to the illustration of the text, from the commentaries on those works. Notes have been also taken from original treatises, of which likewise brief notices will be here given, that their authority may be appreciated.

In the selection of notes from commentaries and other sources, the choice of them has not been restricted to such as might be necessary to the elucidation of the subject as it is exhibited in the *English* version; but variations in the reading and interpretation of the original text have been regularly noticed, with the view of adapting this translation to the use of those who may be induced to study it with the original *Sanskrit* text. The mere *English* reader will not be detained by these annotations, which he will of course pass by.

Having verified with great care the quotations of authors, as far as means are afforded to me by my own collection of *Sanskrit* law books (which includes, I believe, nearly all that are extant;) I have added at the foot of the page notes of reference to the places in which the texts are found. They will be satisfactory to the reader as demonstrating the general correctness of the original citations. The inaccuracies, which have been remarked, are also carefully noticed. They are few and not often important.

The sources, from which the annotations have been chiefly drawn, are the following.

B

The commentary of ŚRÍCRÍSHNA TERCA'LANCA'RA on the *Dáyabhága* of JÍMU'TA-VA'HANA has been chiefly and preferably used. This is the most celebrated of the glosses on the text. It is the work of a very acute logician, who interprets his author and reasons on his arguments, with great accuracy and precision; and who always illustrates the text, generally confirms its positions, but not unfrequently modifies or amends them. Its authority has been long gaining ground in the schools of law throughout *Bengal*; and it has almost banished from them the other expositions of the *Dáyabhága*; being ranked, in general estimation, next after the treatises of JÍMU TA-VA HANA and of RAGHU-NANDANA.

An original treatise by the same author, entitled *Dáya-crama-sangraha*, contains a good compendium of the law of inheritance according to JÍMU TA-VA HANA's text, as expounded in his commentary. It has been occasionally quoted in the notes: its authority being satisfactorily demonstrated by the use which was made of it in the compilation of the Digest translated by Mr. HALHED; the compilers of which transcribed largely from it, though without acknowledgment.

The earliest commentary on JÍMU'TA-VA'HANA is that of ŚRÍNA'T'HA ACHA RYA CHU'D'A'MAN'I. It has been constantly in ŚRÍCRÍSHNA's view, who frequently copies it; but still oftener cites the opinions of CHU'D'A'MAN'I to correct or confute them. Notwithstanding this frequent collision of opinions, the commentary of CHU'D'A'MAN'I must be acknowledged as, in general, a very excellent exposition of the text; and it has been usefully consulted throughout the progress of the translation, as well as for the selection of explanatory notes.

Another commentary, anterior to ŚRÍCRÍSHNA's, but subsequent to CHU D A'MAN'I's, is that of ACHYUTA CHACRAVARTÍ, (author likewise of a commentary on the *S'rádd'ha vivéca*.) It is in many places quoted for refutation, and in more is closely followed by ŚRÍCRÍSHNA, but always without naming the author. It contains frequent citations from CHU'D A MAN'I, and is itself quoted with the name of the writer by MAHE'S WARA. This work is upon the whole an able interpretation of the text of JÍMU'TA-VA'HANA, and has afforded much assistance in the translation of it, and furnished many notes illustrating its sense.

PREFACE. vii

The commentary of MAHEŚWARA is posterior to those of CHU'DĀMANĪ and of ACHYUTA, both of which are cited in it; and is probably anterior to SRĪ ERĪSH-NĀ's, or at least nearly of the same date, if my information concerning these authors be correct;* for they appear to have been almost contemporary; but MAHEŚWARA seemingly a little the elder of the two. They differ greatly in their expositions of the text, both as to the meaning and as to the manner of deducing the sense: but neither of them affords any indication of his having seen the other's work. A comparison of these different and independent interpretations has been of material aid to a right understanding and correct version of obscure and doubtful passages in JĪMU'TA-VAHANA's text.

Of the remaining commentaries, of which notices had been obtained, only one other has been procured. It bears the name of RĀGHUNANDANA, the author of the *Smṛiti-tatva*, and the greatest authority of *Hindu* law in the province of *Bengal*. In proportion to the celebrity of the writer was the disappointment experienced on finding reason to distrust the authenticity of the work. But not being satisfied of its genuineness, and on the contrary suspecting it strongly of bearing a borrowed name, I have made a very sparing use of this commentary either in the version of the text or in the notes.

The *Dāya-tatva*, or so much of the *Smṛiti-tatva* as relates to inheritance, is the undoubted composition of RĀGHUNANDANA; and, in deference to the greatness of the author's name and the estimation in which his works are held among the learned *Hindus* of *Bengal*, has been throughout diligently consulted and carefully compared with JĪMU'TA-VAHANA's treatise, on which it is almost exclusively founded. It is indeed an excellent compendium of the law, in which not only JĪMU'TA-VAHANA's doctrines are in general strictly followed, but are commonly delivered in his own words in brief extracts from his text. On a few points, however, RĀGHUNANDANA has differed from his master; and in some instances he has supplied deficiencies. These, as far as they have appeared to be

* Great grandsons of both these writers were living in 1806: and the grandson (daughter's son) of SRĪ ERĪSHNĀ was alive in 1790. Both consequently must have lived in the first part of the last century. They are modern writers; and SRĪ ERĪSHNĀ is apparently the most recent.

of importance, have furnished annotations; for which his authority is of course quoted.

A commentary by CAŚIRAĀMA ON RAGHUNANDANA'S *Dāya-tatva*, has also supplied a few annotations, and has been of some use in explaining JĪMUṬA-VAĀHANA'S commentators, being written in the spirit of their expositions of that author's text, particularly SRĪCRĪSHNA'S gloss; and often in the very words of that commentator.

The *Dāya-rahasya* or '*Smṛiti-ratnāvalī*' of RĀMA-NAṬHA VIDYA-VAĀCHEŚPATI, having obtained a considerable degree of authority in some of the districts of Bengal, has been frequently consulted, and is sometimes quoted in the notes. It is a work not devoid of merit: but, as it differs in some material points from both JĪMUṬA-VAĀHANA and RAGHUNANDANA, it tends too much to unhinge the certainty of the law on some important questions of very frequent recurrence. The same author has written a commentary on JĪMUṬA-VAĀHANA'S *Dāya-bhāga*, and makes a reference to it at the close of his own original treatise. My researches, however, and endeavours to procure a copy of it, have not been successful. I should else have considered it right to advert frequently to it in the illustrations of the text.

Other treatises on inheritance according to the doctrines received in Bengal, as the *Dāya-nirnāya* of SRĪCARA BHAT TĀCHAĀRYA and one or two more which have fallen under my inspection, are little else than epitomes of the work of RAGHUNANDANA or of JĪMUṬA-VAĀHANA: and on this account have been scarcely at all used in preparing the present publication.

The remaining names, which occur in the notes, are of works or of their authors belonging to other schools. These are rarely, I may say never, cited, unless for variations in the reading of original texts of legislators; excepting only the *Vīramitródaya* of MITRA-MISRA; from whose work a few quotations may be found in the notes, contradicting passages of the text. This author, in the compilation mentioned, uniformly examines and refutes the peculiar doctrines maintained by JĪMUṬA-VAĀHANA and RAGHUNANDANA: but it did not fall within the design of the present publication to exhibit the controversial

P R E F A C E. ix

arguments of the modern opponents of the *Bengal* school; and quotations from his work have been therefore sparingly inserted in the notes to JÍMU'TA-VÁ'HANA'S treatise.

The commentaries on the *Mitácshará* of VIJNYA'NE'S WARA are less numerous. Of four, concerning which I have notices, two only have been procured. The *Subód'hini* by VIS'WE'S'WARA BHAT'TA; and a commentary by a modern author; BALAM BHAT'TA.

The *Subód'hini* is a collection of notes elucidating the obscure passages of the *Mitácshará*, concisely, but perspicuously. It leaves few difficulties unexplained, and dwells on them no further than is necessary to their elucidation. The commentator is author likewise of a compilation entitled *Madana-párijáta*, chiefly on religious law, but comprising a chapter on inheritance, a topic connected with that of obsequies. To this work he occasionally refers from his commentary. Both therefore have been continually consulted in the progress of the translation, and have furnished a great proportion of the annotations.

BALAM BHAT'TA'S work is in the usual form of a perpetual comment. It proceeds, sentence by sentence, expounding every phrase, and every term, in the original text. Always copious on what is obscure and often so on what is clear, it has been a satisfactory aid in the translation, even where it was busy in explaining that which was evident: for it has been gratifying to find, though no doubts were entertained, that the intended interpretation had the sanction of a commentator. BALAM BHAT'TA'S gloss in general follows the *Subód'hini* as far as this goes. It has supplied annotations where VIS'WE'S'WARA'S commentary was silent; or where the explanation, couched in VIS'WE'S'WARA'S concise language, might be less intelligible to the *English* reader.

VIJNYA'NE'S'WARA'S *Mitácshará* being a commentary on the institutes of YAJ-NYAWALCYA, it has been a natural suggestion to compare his expositions of the law, and of his author's text in particular, with the commentaries of other writers on the same institutes, viz. the ancient and copious gloss of APARÁRCA of the royal house of *Silára*, and the modern and succinct annotations of SULAPÁ'NI in his comment entitled *Dípacalicá*. A few notes have been selected from both these works, and chiefly from that of APARÁRCA.

PREFACE.

For like reasons the commentators on the institutes of other ancient sages have been similarly examined ; they are those of ME'D'HA'TIT'HI and CULLU'CA BHAT'TA on MENU ; HARADATTA'S gloss on GAUTAMA, which is entitled *Mitácshará* ; NANDA-PANDITA'S commentary under the title of *Vaijayantí*, on the institutes which bear the name of the god VISHN'U ; and those of the same author, and of MA'D'HAVA A'CHA RYA, on PARA'SARA.

NANDA-PAN'DITA is author also of an excellent treatise on adoption, entitled *Dattaca-mímánsá*, of which much use has been made, among other authorities, in the enlarged illustrations which it has been judged advisable to add to the short chapter contained in the *Mitácshará* on this important topick of *Hindu* law.

The same writer appears, from a reference in a passage of his gloss on VISHN'U, to have composed a commentary on the *Mitácshará* under the title of *Pratitácshará*. Not having been able to procure that work, but concluding that the opinions, which the writer may have there delivered, correspond with those which he has expressed in his other compositions, I have made frequent references to the rest of his writings, and particularly to his commentary on VISHN U, which is a very excellent and copious work, and might serve, like the *Mitácshará*, as a body or digest of law.

All the works of greatest authority in the several schools which hold the *Mitácshará* in veneration, have been occasionally made to contribute to the requisite elucidation of the text, or have been cited when necessary for such deviations from its doctrine, as it has been judged right to notice in the annotations. It will be sufficient to particularize in this place the *Víramitródaya* before mentioned, of which the greatest use has been made ; that compilation conforming generally to the doctrines of the *Mitácshará*, the words of which it very commonly cites with occasional elucidations of the text interspersed, or with express interpretations of it subjoined, or sometimes with the substitution of a paraphrase for parts of the original text. All these have been found useful auxiliaries to the professed commentaries and glosses.

This brief account of the works from which notes have been selected or aid derived, will sufficiently make known the plan on which the text of the *Mitácshará* and that of JIMU'TA-VA'HANA have been translated and elucidated, and the

P R E E A C E.

xi

materials which have been employed for that purpose. It is hardly necessary to add, by way of precaution to the reader, that he will find distinguished by hyphens, whatever has been inserted from the commentaries into the text to render it more easily intelligible ; a reference to the particular commentary being always made in the notes at the foot of the page.

Concerning the history and age of the authors whose works are here introduced to the attention of the *English* reader, some information will be expected. On these points, however, the notices, which have been collected, are very imperfect, as must ever be the case in regard to the biography of *Hindu* authors.

VIJNYAÑEŚWARA, often called VIJNYAÑA-YÓGÍ, the author of the *Mitá-cshará*, is known to have been an ascetick, and belonged, as is affirmed, to an order of *Sannyásís*, said to have been founded by SANCARA-ÁCHA'RYA. No further particulars concerning him have been preserved. A copy of his work has indeed been shown to me, in which, at its close, he is described as a contemporary of VICRAMA DITYA. But the authority of this passage, which is wanting in other copies, is not sufficient to ground a belief of the antiquity of the book ; especially as it cannot be well reconciled to the received opinion above noticed of the author's appertaining to a religious order founded by SANCARA-A CHA RYA, whose age cannot be carried further back at the utmost than a thousand years. The limit of the lowest recent date which can possibly be assigned to this work, may be more certainly fixed from the ascertained age of the commentary ; the author of which composed likewise (as already observed) the *Maḍana-párijáta* so named in honor of a prince called MADANA-PA'LA, apparently the same who gives title to the *Madana-vinóda*, dated in the fifteenth century of the *Sambat* era.* It may be inferred as probable, that the antiquity of the *Mitá-cshará* exceeds 500 and is short of 1000 years. If indeed DHA'RE-ś'WARA, who is frequently cited in the *Mitá-cshará* as an author, be the same with the celebrated RA'JA' BHÓJA, whose title may not improbably have been given to a work composed by his command, according to a practice which is by no means uncommon, the remoter limit will be reduced by more than a century ; and the range of uncertainty as to the age of the *Mitá-cshará* will be contracted within narrower bounds.

* 1431 *Sambat* ; answering to A. D. 1375.

OF JÍMUTA-VAHANĀ as little is known. The name belongs to a prince of the house of SILĀRA, of whose history some hints may be gathered from the fabulous adventures recorded of him in popular tales; and who is mentioned in an ancient and authentick inscription found at *Salset*.* It was an obvious conjecture, that the name of this prince might have been affixed to a treatise of law composed perhaps under his patronage or by his directions. That however is not the opinion of the learned in *Bengal*; who are more inclined to suppose, that the real author may have borne the name which is affixed to his work, and may have been a professed lawyer who performed the functions of judge and legal adviser to one of the most celebrated of the *Hindu* sovereigns of *Bengal*. No evidence, however, has been adduced in support of this opinion; and the period when this author flourished is therefore entirely uncertain. He cites several earlier writers; but, their age being not less doubtful than his own, no aid can be at present derived from that circumstance, towards the determination of the limits between which he is to be placed. His commentators suppose him in many places to be occupied in refuting the doctrines of the *Mitácshará*. Probably they are right; it is however possible, that he may be there refuting the doctrines of earlier authors, which may have subsequently been repeated from them in the later compilation of VIJNYĀNĒŚWARĀ. Assuming, however, that the opinion of the commentators is correct; the age of JÍMUTA-VAHANĀ must be placed between that of VIJNYĀNĒŚWARĀ, whose doctrine he opposes, and that of RĀGHUNĀNDANĀ who has followed his authority. Now RĀGHUNĀNDANĀ's date is ascertained at about three hundred years from this time; for he was pupil of VĀSUDEVA SĀRVABHAUMA, and studied at the same time with three other disciples of the same preceptor, who likewise have acquired great celebrity; viz. SÍRÓMANĪ, CRĪSHNĀNĀNDĀ, and CHĀITANYĀ: the latter is the well known founder of the religious order and sect of *Vaishnavas* so numerous in the vicinity of *Calcutta*, and so notorious for the scandalous dissoluteness of their morals; and, the date of his birth being held memorable by his followers, it is ascertained by his horoscope, said to be still preserved, as well as by the express mention of the date in his works, to have been 1411 of the *Saca* era, answering to Y. C. 1489: consequently RĀGHUNĀNDANĀ, being his contemporary, must have flourished at the beginning of the sixteenth century.

* Asiatick Researches. Vol. 1. p. 357.

CONTENTS.

PREFACE.

DĀYA-BHĀGA OF JĪMŪTA VĀHANA.

	PAGE.
CHAP. I. Partition of Heritage defined and explained. Two periods of partition of the Father's wealth,	1
II. Partition, made by a Father, of property ancestral, and of his own acquisitions,	23
III. Partition by Brothers,	54
Sect. I. Partition improper in the Mother's life time. Management of the affairs during the continuance of the family partnership. Any one coparcener may insist on separation. Right by representation admitted as far as the third degree,	54
Sect. II. Partition with or without specifick deductions. Provision for the Mother, and for the Sister,	61
IV. Succession to Woman's property,	68
Sect. I. Separate property of a Woman defined and explained,	68
Sect. II. Succession of a Woman's Children to her separate property,	78
Sect. III. Succession to the separate property of a childless Woman,	88
V. Exclusion from Inheritance,	101
VI. Effects liable or not liable, to Partition,	108
Sect. I. Patrimony and joint stock, divisible; separate acquisitions, not to be divided,	108
Sect. II. Definitions of the various sorts of acquisitions &c. exempt from partition,	127
VII. Participation of Sons born after a partition,	136
VIII. Allotment of a share to a coparcener returning from abroad,	140
IX. Participation of Sons by women of various tribes,	142

CHAP. X.	Participation of Sons by adoption,	.....	152
XI.	Succession to the estate of one who leaves no male issue,	.....	158
Sect. I.	Widow's right of succession,	.....	158
Sect. II.	On the right of the Daughter and Daughter's Son,	.....	184
Sect. III.	On the Father's right of succession,	.....	194
Sect. IV.	On the Mother's right of succession,	.....	196
Sect. V.	On the Brother's right of succession,	.....	198
Sect. VI.	On the Nephew's right of succession, and that of other heirs,	.....	212
XII.	Second partition of property after the re-union of coparceners,	.....	227
XIII.	Distribution of effects concealed,	.....	229
XIV.	Ascertainment of a contested Partition,	.....	236
XV.	Peroration,	.....	240



MITÁCSHÁRA.

CHAP. I.	Sect. I. Definition of inheritance, and of partition. Disquisition on property,	.....	241
	Sect. II. Partition equable or unequal. Four periods of partition. Provision for Wives. Exclusion of a Son who has a competence,	.....	258
	Sect. III. Partition after the Father's decease,	.....	263
	Sect. IV. Effects not liable to partition,	.....	268
	Sect. V. Equal rights of Father and Son in property ancestral,	.....	276
	Sect. VI. Rights of a posthumous Son and of one born after the partition,	.....	280
	Sect. VII. Shares allotted to provide for Widows, and for the nuptials of unmarried Daughters. The initiation of uninitiated Brothers defrayed out of the joint funds,	.....	285
	Sect. VIII. Shares of Sons belonging to different tribes,	.....	290
	Sect. IX. Distribution of effects discovered after partition,	.....	293
	Sect. X. Rights of the <i>Dwyámushyáyan'a</i> or Son of two Fathers,	.....	296
	Sect. XI. Sons by birth and by adoption,	.....	301
	Sect. XII. Rights of a Son by a female slave, in the case of a <i>Súdra's</i> estate,	.....	322
II.	Sect. I. Right of the Widow to inherit the estate of one, who leaves no male issue,	.....	324
	Sect. II. Right of the Daughters and Daughter' Sons,	.....	341

C O N T E N T S.				xv
Sect. III. Right of the Parents,....	....	....	....	343
Sect. IV. Right of the Brothers,	....	....	....	346
Sect. V. Succession of kindred of the same family name; termed				
<i>Gótraja</i> , or gentiles,	....	....	....	349
Sect. VI. Succession of cognate kindred, <i>Bandhu</i>,	....	....	....	352
Sect. VII. Succession of strangers, upon failure of the kindred,	....	....	....	353
Sect. VIII. Succession to the property of a Hermit or of an Ascetick,	....	....	....	354
Sect. IX. Re-union of kinsmen after partition,	....	....	....	356
Sect. X. Exclusion from inheritance,	....	....	....	360
Sect. XI. Separate property of a Woman,....	....	....	....	364
Sect. XII. Evidence of a Partition,	....	....	....	376