

Bombay, Friday 22nd June 1860.

In the Sudder Dewanee Adawlut.



N^o 429 Special.

Busuya Poojarce _____ Appellant.

_____ Versus _____

Shidowa Kom Purruya _____ Respondent.

_____ Rupees 200.0.0. _____

In this case Busuya prays the reversal of a Decree passed in the Court of the Joint Judge of the Zillah of Dharwar, setting forth that he originally sued Shidowa in the Court of the Sudder Ameen of Dharwar in the said Zillah, for the release from attachment of certain property of his seized by the Nazir, on the grounds, that he had failed to produce some property (attached as intestate but since found to belong to Shidowa) for the safe custody of which he was security, stating, that he had been released under an agreement by Shidowa from responsibility, in consideration of his payment to her of Rupees 900. Shidowa denied that he had been released from responsibility as alleged.

The

The Sudder Ameen held that Busuya had not established his claim, and he accordingly continued the attachment on the property.

In Appeal this decision was affirmed in the Court of the joint Judge who considered Busuya's claim inadmissible. "Busuya it was stated has sued Shidowa to raise an attachment placed on his property, not by Shidowa but by the Nazir, who is not a party to this suit: his claim then to have the attachment raised cannot be considered in this suit. If he has any claim against Shidowa it must be on the agreement for Rupees 900; but any claim on the agreement must if its conditions be broken be laid in the amount of the agreement in order to prove it."

Whereat holding himself aggrieved Busuya prayed the admission of a Special Appeal in the Sudder Dewanee Adawlut which was allowed under the following certificate of the sitting Judge.

"The petitioner having amended his petition and urged as a ground of Appeal - that the Nazir had no power to attach his property without a suit, as Section **LIX** Regulation **IV** A.D. 1827 does not apply to this case. I admit a Special Appeal because the section quoted is applicable only to parties in a suit, and does not apply to securities given & pending

"pending enquiries under other Regulations and Acts,
 "and I know of no authority the Nazir has to exe-
 "cute a security bond except when given in a suit,
 "without a suit being first filed against the security,
 "and Busuya is therefore entitled to have his at-
 "tachment raised. The petition ought to be return-
 "ed for retrial on that point, but being referred
 "for rejection it must be admitted in order that
 "it might be returned."

Whereupon the said case being this day
 called on for hearing and the Vukels of both
 parties being present, the Court agree with the
 sitting Judge who admitted this Appeal, and con-
 sider, that Busuya's claim to have the attachment
 raised should be gone into in this suit, and that
 if that attachment was illegally issued on Shidow's
 application, Busuya is entitled to have it raised.
 They therefore, reverse the joint Judge's decree and
 remand the suit in order to his passing a fresh
 decision on the above point according to Law. Costs
 to follow the final decision.

Head of Exhibits

- A Letter from the Judge of Dhariwar forwarding
Petition of Special Appeal &c.
- B Petition of S. Appeal
- C Decree of the Joint Judge
- D Decree of the Suud Ameen
- E Judgment (English Version of the Jt. Judge's Decree)
- F Mukhalatnama of Appellant in the name of V.
Tukeerapa
- G Supplemental Petition of Appellant

Head of Exhibits continued

- H 2nd Supplemental Petition of Appellant
- I Certificate of Appeal with translation of the same
- J Precept to and return from the Judge certifying copy of Security Bond for costs together with papers and proceedings from the 1st Judge's Court Nos 1 to 13 and from the S. Mueen's Court Nos 1 to 33
- K Copy of Appellant's Security Bond for costs
- L Precept to and return from the Judge with Summons
- M Summons to Respondent
- N Vukalutnauca of Respondent in the name of N. Shinglal, Muthooradus
- O Decree of the Sud Dwanee Adalat
- P Precept to the Judge of Sharnwar forwarding an attested copy of the Decree

Bill of Costs

In the Sud Dwanee Adalat

By Appellant	
Petition of Appeal	10-0-0
Vukalutnauca	" 8-0
Supplemental Petition	" 8-0
Security Bond	" 2-0
Batta for Summons	" 12-0
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By Respondent	
Vukalutnauca	" 8-0
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	<u>Rs 12-6-0</u>

Vakils fee to be reckoned according to the provisions of Act I of 1846

H. Mung
Principal Judge

M. M. M.
Principal Judge

H. P. P.
Acting Principal Judge

[Handwritten initials and numbers]

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१ श्रीकृष्णार्जुनसंवादे

६८ पत्नीपत्र धर्मोपनिषद्

६८ श्रीकृष्णार्जुनसंवादे

६२ पत्नीपत्र धर्मोपनिषद्

६१२ श्रीकृष्णार्जुनसंवादे

११६१४

६८ श्रीकृष्णार्जुनसंवादे

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~~परीषद्दीर्घादि~~

~~विद्यमान आहे याची पत्राची~~

~~येथील पत्राची पत्राची~~

True Translation

M. M. /
1st Asst. Secy.