

of the Court, under cl. 1, Sec. xiv. of Reg. XVIII. of 1827 (a), be considered as giving a claim to the house in question superior to that conferred by the latter."

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The defendant below appealed against the decree.

The appeal was argued before FORBES and WARDEN, JJ.

*Dhirajlál Mathurádás*, for the appellant, contended that, as the appellant's deed of sale had been accompanied by possession, by Hindú law he was entitled to the property as against the respondent, whose deed had not been accompanied by possession. The appellant's deed of sale, having been registered, was entitled to preference over that of the respondent, which was not registered.

*Fakírappá* for the respondent.

PER CURIAM :—Malesháppá's deed of sale, having been registered, invalidated the respondent's deed of sale, which was not registered. The decree is, therefore, reversed.

*Decree reversed.*

*Special Appeal No. 56 of 1863.*

July 21.

GUMA'N GALLUBHA'I ..... *Appellant.*  
SORA'BJI BARJORJI ..... *Respondent.*

*Payments—Oral Evidence—Sámádaskat.*

Payment of a debt due on a *sámádaskat* may be proved by oral evidence alone.

THIS was an action to recover the sum of Rs. 680, amount of principal and interest due on a *sámádaskat*, dated the 4th of Chaitra Vadya, Samvat 1913.

The defence set up was payment.

The Munsif of Súrat, A'zam Davalatráv Sampatráv, who tried the case, held payment to be proved, and threw out the claim.

On appeal by the original plaintiff, Sorábji, the Judge of Súrat, A. B. Warden, reversed the Munsif's decree, and gave a decree for the amount claimed, on the ground that

(a) "A bond or other writing stamped after its original date, if executed within the zillahs subordinate to the Presidency of Bombay, shall, so far as it is affected by the stamp, become valid against the grantor from its original date: but as to the rights of third parties the date of its being stamped shall be held to be its real date."

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the defendant had only adduced oral evidence to prove payment of the debt, and that such evidence was inadmissible.

The defendant below thereupon preferred a special appeal, which was argued before FORBES and TUCKER, JJ.

*Dhirajlál Mathurádás* for the appellant.

*Dádúbhái Frámji* for the respondent.

FORBES, J., delivered judgment:— We consider that the Judge was in error in holding that oral evidence was not admissible to prove that the amount due on the *sámádaskat* had been paid, and in requiring documentary evidence of the payment of the debt. We, therefore, reverse the decree of the Court below, and remand the case, in order that the Judge may decide whether it has been proved by the evidence recorded that the amount due on the *sámádaskat* has been paid, and pass a new decree on the merits.

*Decree reversed.*

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*Special Appeal No. 58 of 1863.*

PRA'NSHANKAR and others ..... *Appellants.*

PRA'NNATH MA'HA'NAND..... *Respondent.*

*Declaration of Right—Pujári—Mandir.*

An action will lie to obtain a binding declaration of a person's right to perform the duties of *Pujári*, and to receive the proceeds of a *Mandir*.

THIS suit was instituted by Pránshankar and others in the Court of the Munsif of Súrat, praying for an injunction to restrain Pránnáth from interfering with them in the exercise of the office of *pujáris* in a Hindú temple called Rámji Mandir, in the City of Súrat, and in the receipt of the proceeds of the same, and for a declaration of their right to the office and receipts.

The Munsif of Súrat, finding that the plaintiffs, Pránshankar and others, had established their right to the office in question, granted the injunction sued for.

On appeal by the original defendant, Pránnáth, to the Judge of Súrat, this decree was reversed, and the claim thrown out, on the ground that the original plaintiffs, Prán-