

Now, this cotton having been sold subject to examination by an Inspector, the Court does not consider that the evidence would support an allegation of fraud even if it had been made in the charge, which it has not. The sentence is accordingly annulled. Let the fine and the cotton be returned, and let the Magistrate also be informed that he is bound to record a translation of his finding in criminal cases.

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REG.  
V.  
RATANJI  
BHUKAN.

*Conviction annulled.*

*Special Appeal No. 131 of 1863.*

BHUKAN BHA'IBA'VA' ..... *Appellant.*  
BHA'IJI PRA'G ..... *Respondent.*

July 30.

*Hindú Law—Sale of Immoveable Property—Possession—Sheriff's Sale.*

Possession is not essentially necessary by Hindú Law to give validity to a transfer by sale of immoveable property.

A purchaser at a Sheriff's sale takes only such right, title, and interest as the judgment-debtor may possess in the property sold.

**B**HA'IJI, the plaintiff below, sued Bhukan and three others in the Court of the Munsif of Broach, in the Súrat District, for possession of certain lands purchased by him at a Sheriff's sale promoted by the judgment creditor of one Jorá.

Bhukan, for the defence, set up a title as proprietor to the land claimed, by virtue of a deed of sale executed in his favour by the heir of the said Jorá prior to the Sheriff's sale relied on by Bháiji. Two of the remaining defendants put in no appearance, and the third did not join in the two last stages of the suit.

The case was heard by the Munsif of Broach (Jamiyat-rám), who awarded the land as claimed to Bháiji, on the ground that Bhukan's deed of sale was invalid, under the ruling in Special Appeal No. 3667, it not having been followed by possession; and, on appeal, the Senior Assistant Judge of Broach (W. Sandwith) confirmed this decision, on the same grounds.

Bhukan thereupon preferred a Special Appeal to the High Court, on the ground, among others, that possession was not

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essential by Hindú law to the validity of a sale, and that the precedent relied on by the Courts below had been overruled by later decisions.

The appeal was argued before NEWTON and WARDEN, JJ.  
*Dádábháí Frámji* for the appellant.

NEWTON, J., delivered the following judgment of the Court :—

The Court finds that the Courts below held Bhukan's deed of sale to be genuine, but considered it invalid under the decision in Special Appeal No. 3667, as it had not been followed by possession. The Court finds, however, that this decision has been overruled by the decisions in Special Appeals Nos. 52 and 87. The Court, concurring in these later decisions, holds that by Hindú law a sale of immoveable property is valid though not followed by possession : and as in this case the Sheriff's sale extended only to such right, title, and interest as Jorá might possess in the property in dispute, and this had already vested in Bhukan, Bháiji took nothing by his purchase from the Sheriff.

The Court, therefore, affirms Bhukan's right under his deed of sale, and, in reversing the Senior Assistant Judge's decree, throws out Bháiji's original claim with all costs.

*Decree reversed.*

*Special Appeal No. 129 of 1863.*

July 31.

BHA'ISHANKAR NARBHERA'M.....Appellant.  
HARIVALLABH and others .....Respondents.

*Sheriff's Sale—Purchase in Name of Son—Suit brought in Son's Name—Act VIII. of 1859, Sec. 260.*

A purchased at a Sheriff's sale in the name of his son the interest of a mortgagee in certain property, and before Act VIII. of 1859 came into operation instituted a suit in his own name to recover possession of the mortgaged property.

*Held* that the suit was rightly brought if the son's consent could be shown.

*Query*—What is the effect of Sec. 260 of Act VIII. of 1859 on suits of this character.

THE appellant, plaintiff below, brought this action to obtain possession of certain moveable and immoveable