

The Court delivered the following judgment :—

We are of opinion that as, by Reg. IV. of 1827, Sec. 26 (a), the usage of the country in which the suit arose is, in the determination of Civil actions, to have precedence over the law of the defendant, and as the Court below has found that, by custom in the Broach District, the mortgage of *wakf* land is permissible, as was so long ago as A.D. 1814 held to be the case in the Surat Zillá (Borradaile's Reports, Vol. I., p. 124, new edition), the decision of the Acting Senior Assistant Judge is erroneous.

The Court, therefore, reverses the decree, and remands the case, that the amount of the defendant's lien on the land as mortgagee may be determined, and a new decree passed. Costs on the respondent, Ghulam.

Decree reversed.

REG. v. JOTI bin SATU and others.

13ny2.

Stamp—Engrossing Document on Unstamped Paper—Act X. of 1862, Sec. 3.

The mere engrossing of a document, requiring a stamp, on unstamped paper constitutes no offence under the Stamp Act X. of 1862.

IN this case prisoners 1 and 2 were charged with having mutually given and received agreements on unstamped paper, and prisoners Nos. 3 and 4 with having engrossed the same on unstamped paper, contrary to the provisions of Act X. of 1862, Sec. 3, and Sch. A, cl. 3; and having been found guilty by G. Waddington, F. P. Magistrate at Sátará, were sentenced respectively to pay a fine of Rs. 3, the fines to be levied under Sec. 54 of Act X. of 1862.

The case was called for by the Sessions Judge of Sátará, R. F. Mactier, to ascertain if the requisite authority for the prosecution had been granted by the Collector, and this authority appearing from the miscellaneous papers in the case, the Sessions Judge saw no cause for interference.

(a) Sec. 26 :—“The law to be observed in the trial of suits shall be Acts of Parliament and Regulations of Government applicable to the case: in the absence of such Acts and Regulations, the usage of the country in which the suit arose; if none such appears, the law of the defendant; and in the absence of specific law and usage, justice, equity, and good conscience alone.”

1863.

A' BAS ALLI
v.
GHULAM
MUHAMMAD.

