

therefore, held the plaintiff entitled to recover the land upon payment of Rs. 6 as principal, and Rs. 36-4-0 as interest up to the date of suit, and passed a decree accordingly.

On appeal, the Acting Judicial Assistant held that, as the month expired without repayment, the land became absolutely the property of the mortgagee, and that he then stood in a position to transfer it, and grant with it a sound title; and that the Munsif had no right to make conditions of payment. He reversed the decree.

The Appeal was argued before FORBES and WESTROPP, JJ.

Vināgakrāv Harichand for the appellant.

Shāntārām Nārāyaṅ for the respondent.

The Court having observed that Venkājī, by accepting payment of the mortgage-debt from the surety, had waived any right to treat the mortgage as converted into a sale, made the following order:—

The Court permits the appellant to withdraw from the suit, with liberty to bring a fresh suit, if he so desire, for redemption of the property mentioned in the plaint, it appearing to this Court that Nathu having, in his character of surety for Vithu, paid to Venkājī the mortgage-money, cannot be regarded as holding the land absolutely, as purchaser. The appellant to pay all costs in the suit.

—o—o—o—

VA'MANA'JI KONERA'S CASE.

Dec. 18.

Vakil—District Judge—Power of Judge to remove Vakil.

A District Judge has no power to remove a *vakil* against his will from a Court to which he has once been allotted, except for a criminal offence, misbehaviour, or neglect of duty.

A PETITION had been presented by Vāmanāji Konerā, a *vakil* in the Solāpur District, praying for the reversal of an order transferring him from the Court of the Munsif of Bārsi to that of the Munsif of Madhen: stating that he had been practising as a *vakil* at Bārsi, with and without a *sanad*, from thirty to thirty-five years; that his son Raghunāth

1863.

In re
VA'MANA'JI
KONERA'.

was also practising in the same court since A. D. 1850; that he would be a loser in many ways by his transfer to Madhen; and that, as both of them had done their duties to the best of their ability, this order for his transfer should be annulled. The District Judge of Solápur, being called upon to report upon the petition, stated that the petitioner and his son were both employed as *vakils* in the Munsif's Court at Bársi, which was "objectionable, and contrary to allowed practice;" that he had, therefore, directed the Munsif of Bársi to send one of them to the Court of the Munsif of Madhen; and that he had no objection, if it suited the petitioner better, to allow him (the petitioner) to remain at Bársi, his son going to Madhen in his stead.

Pándurang Balibhadra (with him *Múdhavráv Krishna Khárkar*) for the applicant.

PER CURIAM (WESTROPP and TUCKER, JJ.) :—The Court, after consultation with, and with the concurrence of, Forbes and Erskine, JJ., have come to the conclusion that a District Judge is not empowered to remove a *vakil* against his will from a court to which he has once been allotted, except under Sec. 56 of Reg. II. of 1827, for a criminal offence, misbehaviour, or neglect of duty; the Judge's order is, therefore, annulled.

Crown Cases.

Jan. 8.

REG. v. KHODA' JA'GTA' et al.

Vessel—Plying Unsafe Vessel—Charge—Ind. Pen. Code, Secs. 282 and 336.

Boatmen who ply an unseaworthy vessel, whereby the lives of passengers for hire are endangered, should be charged under Sec. 282, and not under Sec. 336, of the Ind. Pen. Code.

KHODA' JA'GTA' and two others, sailors by profession, were tried by Kúvarji Kávasji, F. P. Magistrate of Khedá, under Sec. 336 of the Indian Penal Code, on the charge of "doing an act which endangered the lives or the personal safety of others, in having plied on the Máhi river a boat which was out of order and had also a crack, taking therein about one hundred passengers, and with the assistance of only two men, viz., the prisoners Nos. 1 and 2, the prisoner No. 3 being the man to whom the fare of plying the ferry