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both parties argued the point and requested my decision, I have given it. My order will be—

Declare the plaintiff entitled to an account of the intestate's estate and effects which have come to the hands of the defendants, or of any person or persons by her order or for her use, and let the usual commission issue to the Commissioner for taking Accounts to take such account, and also an account of the debts and funeral expenses of the said intestate, and let him ascertain the balance, and let proper advertisements be published for creditors and the next of kin or heirs, according to Muhammadan law, of the deceased, and let the said Commissioner in his report state who are the next of kin, and the shares and amounts to which they are respectively entitled, and upon the completion of the said report let this suit be entered in the list for further hearing, and direction, as to costs.

Special Appeal No. 555 of 1863.

Feb. 2. NA'VSA' bin BIBA' (original plaintiff)..... *Appellant.*
 RA'BA' bin BAHIRU' and another (original defendants)..... *Respondents.*

Valuation of Claim—Error affecting Merits of Case—Civ. Proc. Code, Sec. 350.

An error in the valuation of a claim is not an error, defect, or irregularity which affects the merits of the case, and an appellate court is restrained, by Sec. 350 of the Code of Civil Procedure, from ordering the reversal of a decree on account of any such error, which does not also affect the jurisdiction of the court which originally tried the suit.

THIS was a Special Appeal against the decree of W. H. Newham, Assistant Judge of Ahmednagar.

The plaintiff brought this action, in the Court of the Munsif of Simnar (laying the amount of his claim at Rs. 10, and stamping his plaint accordingly), to redeem four fields which he alleged to be his family *mirás*, which had been mortgaged to the defendants' uncle fifty or fifty-five years ago. The defendants' case was that one Rānu had mortgaged the fields in Shake 1715 (corresponding with A.D. 1793-94)

for Rs. 200; that Rāṅṅu's family was extinct, and that Rs. 1,442, which he claimed to be due as principal and interest, should be paid before any one could claim the land. The Munsif found that Nāvśā was heir, and that he could redeem the land on payment of the sum demanded by the defendant, as he held the rule of *dām dupat* inapplicable to the case. The plaintiff appealed, on the ground that, as the defendants had the profits of the field, he could not, by the Shāstrās and custom of the country, claim more than *dām dupat*. The Assistant Judge of Ahmednagar, who tried the appeal, considered that if the suit were one of ejectment it would have been correct to lay it at Rs. 10, the amount of annual assessment. Since, however, it was a suit to redeem a mortgage contracted at Rs. 200, the action should, he thought, have been laid at the amount of the charge on the land. The decision in Special Appeal No. 2965,* he held, did not apply. The difference in the amount of stamp revenue would be Rs. 31: he viewed the land "simply as pledged property without regard to its nature as land." He, therefore, reversed the Munsif's decision, and threw out the claim, right being reserved to the plaintiff to institute a fresh suit, laying his claim at the amount of mortgage.

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The Appeal was heard by COUCH and TUCKER, JJ.

McCombie, for the appellant, submitted that the decision was contrary to law, in that the Assistant Judge had thrown out the plaintiff's claim as being improperly valued, although the property in dispute was land paying revenue to Government, and action was brought at the amount of the annual assessment.

Ganesh Hari Patwardhan for the respondent.

PER CURIAM:—We are of opinion that errors in the valuation of claims are not errors, defects, or irregularities which affect the merits of the case, and that when such errors, real or supposed, do not affect the jurisdiction of the Court which originally tried the cause, an appellate court is restrained, by Sec 350 of the Code of Civil Procedure, from ordering the reversal of a decree on account of such errors. In the present suit, if the claim had been valued at the amount of the charge on the land, instead of at the annual assessment, it

* Morris's Selected Decisions, Part I., p. 95. In a suit for the removal of an attachment issued against some land, it was declared that a person suing to retain possession of land as its *dharekari*, is entitled to estimate his suit at the amount of the annual assessment, and is not obliged to do so at the amount for which it is attached.

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would still have been within the jurisdiction of the Munsif, and we consider, therefore, that the lower court acted erroneously in reversing the Munsif's decree on the grounds set forth. In Special Appeal No. 127 of 1863, which has been quoted in argument, the point which we have now decided does not appear to have been raised or determined. We lay down no general rule with respect to the valuation of claims for the redemption of mortgages, as there is a difference of opinion between the members of the Court on this subject, and it is not necessary that we should determine that question in this appeal. We reverse the decree, and remand the suit to be disposed of on the merits.

Decree reversed.

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March 11.

VARJIVAN RANGJI v. A'JI DA'JI and others.

*Copies of Judgments—Translations.*

Parties to a suit are entitled to receive copies of the original judgment, not merely a translation.

THE plaintiff had presented a petition, stating that the Collector of Kheda had not furnished him with a copy of his English judgment in a suit between the petitioner and A'ji Daji and others, though application had been made for it. The Collector of Kheda, in reply to the call for explanation on the subject, reported that "a Gujarati translation of the judgment and decree was duly given to the petitioner on application;" that the petitioner applied for copies in English also, but, as it was not usual to furnish copies, his request had not been complied with.

PER CURIAM (COUCH and NEWTON, JJ.): —The Collector is to be informed that he ought to have furnished a copy of his judgment, which he was bound to record in English, and not a mere translation, and requested now to do so on the requisite conditions being complied with by the applicant.