

1861.

VIANKATESH
E. JOGEKAR

v.

BA'LA'JIRA'V
ANANDRA'V
et al.

shown against the award, the award shall be filed, and may be enforced as an award made under the provisions of this chapter," but no appeal is given by this or any of the previous sections of the chapter. In the case of the rejection of a plaint which the application under Sec. 327 is made to resemble, an appeal is expressly given; Sec. 36. The general appeal clause, Sec. 23 of Act XXIII. of 1861, does not apply to this case, as the refusal of the Collector cannot be considered as a decree, nor does it fall within Sec. 363 of Act VIII. of 1859; and if we examine the previous sections of Ch. VI., the object of the Code appears to be to discourage further litigation where an award has been made. Sec. 325 lays down that "*in every case in which judgment shall be given according to the award, the judgment shall be final.*"

If in this case the Collector had filed the award, and had given judgment according to it, the other party would not have had the right of appealing against it; and, therefore, it is but equitable that in the case of a refusal to file the award you should have no right to appeal. The refusal to file the award does not invalidate it. It only prevents the award being enforced in the summary way provided, and, although not filed, it remains an award, and may be used in any other proceeding for what it may be worth. The petition must, therefore, be rejected.

Petition rejected.

March 14.

MAHA'DA'JI RA'MCHANDRA MULE *Applicant.*

VITHAL VISHVANA'TH..... *Respondent.*

Practice—Review—Application for Review—Civ. Proc. Code, Sec. 374.

Applications for reviews should be drawn up in the the same manner as applications for the admission of special appeals, and should set forth concisely the grounds of objection to the decision sought to be reviewed.

Dhirajlál Mathurádás appeared before NEWTON and TUCKER, JJ., to support an application for review in this case. On its being called on for hearing, Newton, J., remarked that it was so lengthy, prolix, and argumentative, that the first question for consideration was whether it could be received.

The application being the first of the kind before the court, it was, after consideration, returned for amendment, and the following resolution was passed for future guidance in such cases :—

1864.
MAHA'DA JI
RA'MCHAN-
DRA
v.
VITHAL
VISHVANA'TH.

All applications for reviews of judgment should be drawn up in the same manner as applications for the admission of special appeals, *i. e.*, they should set forth concisely the grounds of objection to the decision of which a review is sought, without argument or narrative, and such grounds should be numbered consecutively.

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Special Appeal No. 683 of 1863.

BHA'RATSANGJI MA'NSANGJI *Appellant.*
NAVANIDHARA'YA MANSUKHRA'M *Respondent.*

April 1.

Limitation—Haks payable out of Land—Reg. V. of 1827, Sec. 4.

In suits for recovery of *haks*, which are of the nature of claims of money charged upon or payable out of land, the period of limitation is twelve years.

Decision in Special Appeal No. 3986, 26th November 1858, affirmed.

THIS was a Special Appeal against the decree of W. Sandwith, Senior Assistant Judge for the detached station of Broach.

It appeared that Navanidharaya, the present respondent, and three others, had sued Bháratsangji Mánsangji, the Thákur of Kerwára, to recover a Desái allowance which they had received up to Samvat 1911, but which had fallen into arrear for six years, from Samvat 1912 to Samvat 1917, at Rs. 40 per annum, or Rs. 240 altogether, and interest Rs. 60, total claim Rs. 300. The defence set up was that the claim was barred by the law of limitation; that the defendant had not given any writing or promise to the plaintiff, nor had he ever paid the allowance; and moreover the claim was contrary to the provisions of Act XX. of 1839 and Act XIX. of 1844. The Munsif of Jambúsar, who tried the original suit, decided in favour of the claim, but awarded only Rs. 228-5-0 with costs. An appeal was made against this decision to the Senior Assistant Judge at Broach, who laid down the points for decision to be—(1) whether the suit was barred by Reg. V. of 1827, Sec. 3, (2) or was in any way affected by Acts XX. of 1839