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:—

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.

Special Appeal No. 683 *of* 1863.

April 1.

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

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 Navanidharáya, the present respondent, and three others, had sued Bháratsangji Mánsangji, the Thákur of Kerwárá, 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

and XIX. of 1844, (3) whether it was properly laid, and (4) whether the respondents were entitled to the six years of arrears claimed. His judgment was as follows:—

"As regards the first of these, the Court finds that the debt originated in Samvat 1912, Chaitra Shud 2nd (April A.D. 1856), and that the suit was filed on the 30th of November 1861, or within six years, consequently there is no objection under the law of limitation quoted by the appellant.

"Acts XX. of 1839 and XIX. of 1844 are totally inapplicable, the former having reference to the power of Government to prohibit the levy of any *hak*, &c., whereas there is nothing to show that any prohibition has been issued in this instance, while the latter refers to the abolition from the 1st of October 1844 of certain town duties, &c. In the original suit, No. 3, referred to in the petition of appeal, the right of the plaintiff to a certain allowance was most distinctly denied, but in this case Bháratsangji only states somewhat ambiguously that he has 'never paid the allowance' without unequivocally denying the right. Besides, exhibit No. 3 shows that the right of the plaintiffs, Navanidharáya and another, to this allowance was formerly admitted by Mánsangji, the father of Bháratsangji, and, therefore, the original plaintiffs cannot be put to the proof of their title. The Court, therefore, holds that the claim has been properly laid in the amount of the arrears.

"In the decree (No. 3) filed in this suit, Navanidharáya and another claimed arrears of this Desái *hak* from Mánsangji, who agreed to pay the arrears. This decree was passed in A.D. 1835, but it has never been reversed or altered, and, therefore, it is sufficient proof of the respondent's title.

"The appeal is, therefore, rejected, and the decree of the Munsif confirmed with costs."

The Special Appeal was argued before NEWTON and TUCKER, JJ.

Dhirajlál Mathurádás for the appellant.

Mádhavráv Krishna Khárkar for the respondent.

Dhirajlál submitted that, according to the decision of the late Sadr Court in Special Appeal No. 3986 of 1858, if a man allowed his *nemnuk* to fall into arrears for more than twelve years, he could not claim anything out of that *nemnuk*, and

there was no evidence in the case to show a payment to him within twelve years.

1864.
BHA'RATSANJI MA'NSANGJI
v.
NAVANIDHARA'YA MANSUKHRA'M.

PER CURIAM:—We find that in a similar case (Special Appeal No. 3986, decided on November 26th, 1858) it has been held that to suits for the recovery of *haks* which are of the nature of claims to money charged upon or payable out of land, the limitation of twelve years is applicable, under Reg. V. of 1827, Sec. 4. We, therefore, reverse the decree of the Senior Assistant Judge, and remand the case in order that the lower court may inquire and determine whether the plaintiff can establish the receipt of any payments on account of the *haks* under consideration within the twelve years immediately preceding the institution of the suit, and may pass a new decree on the merits. Costs to follow the final decision.

Decree reversed.