

PER CURIAM :—Ordered that the case be remitted to the District Judge : that he may ascertain whether the will is a genuine one ; and on due inquiry, after notice to the parties concerned, grant a certificate to the person who may appear entitled thereto, after first taking from the person receiving the said certificate such security as shall seem requisite for the protection of the estate, according to Sec. 5 of Act XXVII. of 1860.

1865.

JAMSEDJI
KA'VASJI
v.
MOTI'BA'I.

— — — — —

Civil Petition.

1866.
Jan. 11.

Ex parte MANISHANKAR HARGOVAN.

Certificate of Heirship —Irregular Order—Reg. VIII. of 1827.

An order set aside as irregular ; it having been made in the absence of one of the parties, to whom no intimation had been given of the day when the case would be heard, and also because the examination of witnesses had been referred to a Munsif.

THIS was an application to set aside, as irregular, the order of the Senior Assistant Judge of Broach, made in a judicial proceeding to which the petitioner was a party.

On the death of Bálmukan Hargovan, his brother Manishankar, the petitioner, applied to the Senior Assistant Judge at Broach for a certificate of heirship, under Reg. VIII. of 1827. The application was opposed by Lalitá, widow of the deceased. The Senior Assistant Judge referred the matter to the Munsif for inquiry and report. The Munsif, accordingly, inquired into the matter, and reported the result to the Senior Assistant Judge, who, without fixing any day for resuming consideration of Manishankar's application, or giving any kind of notice whatever, either to him or to his vakíl, as to when there would be a further hearing of the application, took up the case, and upon the evidence taken before the Munsif, and the report made by him, and after examining one more witness, passed an order in the matter adverse to Manishankar, in the absence of Manishankar and of his vakíl. Hence this application.

Nanábhái Huridás, on the 16th of November 1865, ob.
II.—49

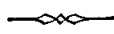
1866.
Ex parte
 MANISHANKAR
 HARGOVAN.

tained a *rule nisi* calling upon the widow to show cause, why the Senior Assistant Judge's order should not be set aside as irregular: no notice having been given to the applicant of the day when the case would be taken up by the Senior Assistant Judge; and the examination of witnesses having been referred to the Munsif.

The papers and proceedings having arrived, Lalitá did not appear to show cause.

PER CURIAM (WESTROFF and TUCKER, JJ.):—*Rule absolute.*

Feb. 14.

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Appeal under Act XXVII. of 1860.

LAKSHMI'BA'I KOM SANSHEDA'PPA'..... *Appellant.*
 RUDRA'PPA' bin GANGA'PPA' *Respondent.*

*Certificate of Administration—Irregular Procedure—Act VIII. of 1859,
 Sec. 334.*

In an application for a certificate of administration, the District Judge having delegated the examination of the witnesses in the case to the Názar of the court, and having, on the evidence so taken, made an order granting the certificate:—*Held* that the procedure was illegal; and that the order so passed must be annulled; and further proceedings for the investigation of the title directed, in which the witnesses should be examined by the Judge himself.

THIS was an appeal, under Sec. 6 of Act XXVII. of 1860, from an order made by C. F. H. Shaw, District Judge of Kaladgi: granting to the respondent a certificate to administer the estate of Gangáppá bin Murghyá, who died at Bagalkot on the 10th of October 1862.

The case was heard before TUCKER and WARDEN, JJ.

Reid (with him Nánábhái Haridás and Shántáráam Náráyan), for the appellant:—There is one ground of objection which, though not set forth in the memorandum of appeal, is apparent on the record itself, and which goes to nullify the Judge's proceedings. The whole of the evidence in the case appears to have been taken, not by the Judge, but by the Názar. The Judge had no right, under the Act or otherwise, to delegate the examination of the witnesses to the Názar.

TUCKER, J.:—If the Judge has acted in the manner stated