

we have come to the conclusion on the evidence that the non-production of the books has not been satisfactorily accounted for, we may safely also conclude that they would be evidence in favour of the plaintiff's case, if they were produced.

1866.
July 4.
R. A. No. 8
of 1864.

Our view on this point is strengthened by the provision of Act VIII. of 1859, Sec. 170 ; and although it is not necessary for us in the present case to give judgment under that section, we certainly might do so under the circumstances.

We have come to the conclusion, in the absence of any satisfactory evidence to the contrary, and having in view the suspicious character of the defence, that the plaintiff sufficiently proved his claim.

We, therefore, reverse the Acting Judge's decision, and award to the plaintiff the amount claimed, Rs. 9,979-1-8, with interest on Rs. 6,841, at 6 per cent. per annum, from the 26th of February 1863 (the date of the institution of the suit) until payment ; with costs.

Decree reversed.

Appeal No. 3 of 1866 under Act XX. of 1864.

VALLABHIDA'S HIRA'CHAND and another ... *Appellants.*
GOKALDA'S TEJIRA'M *Respondent.*

Bombay Minors' Act, Secs. 6, 9, 10, 16, and 24—mistake in copying Bengal Act—Inventory.

Held that persons appointed Administrators to a minor's estate under Sec. 6 of the Bombay Minors' Act (No. XX. of 1864) are not liable to furnish an inventory and accounts under Sec. 16 of the Act.

LILA'DHAR NANDRA'M died, leaving him surviving two sons, who were minors, to whom he left his estate ; having by an instrument in writing appointed the appellants and two other persons to administer the estate.

July 9.
Ap. No. 3 of
1866 under
Act XX. of
1864.

The appellants applied for and obtained a certificate of administration from the Judge of Puna, under Sec. 6 of the

1866.
July 9.

Ap. No. 3 of
1866 under
Act XX. of
1864.

Bombay Minors' Act (No. XX. of 1864);—the other two persons who had been appointed under the instrument not objecting.

Some time after the grant of this certificate the respondent, Gokaldás Tejirám, who was the father-in-law of one of the minors, applied to the District Judge of Puná to call upon the appellants to furnish an inventory and accounts under Sec. 16 of the Act; and the Judge granted the application.

Against this order the appellants, Vallabhdás and Nagardás, applied to the High Court, on the ground that it was not competent for the Judge to issue the order under the Act.

Ganpatráv Bháskar, for the appellants, referred to *Mudsudan Sing v. The Collector of Midnapore and others*, decided in the High Court at Calcutta on the 8th of January 1863.

Bhairavanáth Mangesh for the respondent.

COUCH, C.J.:—In this case the question is whether the Judge was right in making the order under Sec. 16 of Act XX. of 1864.

The persons to whom the administration was granted are two of those who were appointed administrators of the estate of the deceased under an instrument in writing. The other two did not come forward.

The certificate of administration was granted under Sec. 6; and the Judge's order was made under Sec. 16, which says: "The Public Curator and every other administrator to whom a certificate shall have been granted under Sec. 10 shall, within six months from the date of the certificate, deliver in Court an inventory of all the immoveable property belonging to the minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same."

'Sec. 10' referred to in Sec. 16 appears to have been retained by mistake for Sec. 9, in consequence of the Bombay Minors' Act having been copied from the Bengal Minors' Act (No. XI. of 1858), Sec. 10 of which corresponds with Sec. 9 of the Bombay Act. Sec. 10 of the Bombay Act does not at all refer to the granting of a certificate. A similar mistake occurs in Sec. 24 of the Bombay Act.

1866.
July 9.
Ap. No. 3 of
1866 under
Act XX. of
1864.

Sec. 16 therefore refers to Public Curators and others who are appointed under Sec. 9 (a). It does not refer to persons like the appellants, who derive their right to have the charge of the minors' property under an instrument in writing. The appellants have been entrusted with that duty, by the deceased himself. There are very good reasons why Public Curators and others referred to in Sec. 9 should be kept under the control of the court.

The Judge, therefore, was wrong in applying Sec. 16 to the appellants; and we accordingly reverse his decision.

NEWTON, J., concurred.

Appeal allowed.

(a) "Sec. 9. If the estate of the minor consists of moveable property, or of houses, gardens, or the like, the Court shall grant a certificate to the Public Curator appointed under Sec. 19, Act XIX. of 1841; or, if there be no Public Curator, to any fit person whom the Court may select for the purpose."