

*Civil Petition.**Ex parte* DHARAMDA'S BHAVA'NIDA'S.*Indian Registration Act (No. XX.) of 1866—Appeal.*

Held that there was no appeal to the High Court from the decision of a District Court on a petition, under Sec. 84 of Act XX. of 1866, to establish the right to have a document registered; nor would the Court interfere with such a decision, under Reg. II. of 1827, Sec. v., cl. 2.

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THIS was an application to call for the proceedings, under Reg. II. of 1827, Sec. v., cl. 2, in consequence of the refusal of the District Judge of the Konkan to make an order, on the petition of the applicant under Sec. 84 of Act XX. of 1866, asking for a direction to the Registering Officer at Tháná to have a certain document, produced by the petitioner, registered.

The petition was heard before COUCH, C.J., NEWTON and WARDEN, JJ.

Shántarám Náráyan for the applicant.

COUCH, C. J. :—Act XVI. of 1864, in Sec. 15, provides that if a District Registrar or Deputy Registrar shall refuse to register an instrument falling within the provisions of Sec. 13, it shall be lawful for any person interested to institute a regular suit, in order to establish his right to have such instrument registered. Under that provision there would have been an appeal, special as well as regular, as one of the incidents of a suit.

But that Act is repealed by Act XX. of 1866, which in Sec. 84 provides that, “ if a Registrar or Registrar General shall under Sec. 82 make an order of refusal to register any document referred to in Sec. 29, or if a refusal to register shall have been made under Sec. 15 of Act XVI. of 1864, or if he shall under Sec. 83, on appeal, make an order of refusal to direct the registration of such document, it shall be lawful for any person claiming thereunder, his representative, assign, or agent authorised as aforesaid, within thirty days after the making of such order of refusal, to apply by petition to the District Court, in order to establish his right

to have such document registered ;” and that “ the Court may, if it shall think proper, and if the requirements of the law for the time being in force have been complied with on the part of the petitioner, so as to entitle the document to registration, order such Registrar or Registrar General to register the document, or to direct its registration, in the proper manner, and he shall thereupon obey such order, &c.”

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The new Act makes no provision whatever for an appeal to this court, except “ when the officer presiding over the District Court shall himself as Registering Officer have made any order appealed against under this section,” in which case it is provided that “ the petition shall, within sixty days after the making of such order, be presented to the High Court, and the provisions contained in the former part of the section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.” Otherwise there is no provision authorising this court to order registration.

From the terms of this section it appears that the Legislature intended to alter the procedure, and to substitute a *summary procedure* for the regular suit and its incidents, which existed under the provision of the former Act. And were we to make the order that we are now asked under Reg. II. of 1827, Sec. v., cl. 2, to make, we have no power to carry out such an order. This of itself would be a sufficient reason for not interfering in such a case.

We cannot undertake to say that the High Courts at Calcutta and Madras have not such powers as are given to us by Reg. II. of 1827, Sec. v., cl. 2 ; but we have every reason to believe that they have not ; and if it was not intended that those courts should have such powers, it is not likely that the exercise of such powers in this presidency was contemplated.

We are of opinion, therefore, that we have not only no power to interfere in a matter of this kind, but that even if we had the power we ought not to exercise it, since the Legislature has evidently intended that the decision of the District Court should be final.

Petition rejected.