

down on the board on Thursday, the 15th of February: the defendants to file and give a copy of a written statement to the plaintiff on or before the 8th of February.

1866.
January 22.
Appeal No. 36.

Appeal allowed.

NOTE.—In Appeal No. 39, *Vandrávandás Jamnádas v. Victoria Finance and Bullion Association*, a decree by default having been given against the plaintiff on the same day and under circumstances exactly similar to those of the above case, and the grounds of appeal being also the same, the respondents' counsel consented to a similar order being made.—ED.

Original Suit No. 581 of 1864; Appeal No. 32.

BHIMJI' GIRDHAR..... *Defendant and Appellant.*

W. J. MORGAN *Plaintiff and Respondent.*

Appeal—Judge's notes—Security for costs.

A certified copy of the Judge's notes not having been filed; and there being no certificate from the Prothonotary that security had been given for costs;—the appeal was dismissed for non-compliance with the Rules of the Court.

THIS was an appeal from the decision of Mr. Justice COUCH, January 27. who gave judgment for the plaintiff, on the 7th of September 1865, for Rs. 17,625 for damages and costs, by reason of the defendant's breach of a contract for the delivery of cotton.

This was the day fixed for hearing the appeal.

Marriott now applied for leave to file a certified copy of the Judge's notes, which, owing to a misapprehension, had not been filed in accordance with the Rule of the Court in that respect. There was an affidavit by a clerk of the appellant's attorney, who deposed that he was under the impression, until within the last day or two, that the notes had been filed. It would be sufficient punishment to the appellant to have to pay the costs of an adjournment of the hearing of the appeal, which was now asked for.

1866.
January 27.
Appeal No. 32.

Howard for the respondent stated that there was another defect in the conduct of the appeal. There was no certificate from the Prothonotary that security had been given for costs.

ARNOULD, J.—There has been negligence in the conduct of this case. The Rules of the Court have not been complied with; and the appeal must, therefore, be dismissed.

WESTROPP, J.—I am of the same opinion. The Court must assert its Rules. No sufficient excuse has been put forward for the failure of the appellant to comply with them.

Appeal dismissed with costs.

Original Suit No. 388 of 1865 ; Appeal No. 40.

MUHAMMADBHA'I DHARAMSI' and
another *Plaintiffs and Appellants.*
BHA'ANJI' TOPAN *Defendant and Respondent.*

Security for costs—Time within which to appeal.

Appeal dismissed, as the appellants had not given security for costs; and as the appeal had not been filed within the time required by the Rules of the Court.

It is sufficient for the respondent to object at the hearing of the appeal for non-compliance with the Rules of the Court; and he need not apply specially to have the appeal rejected, when the memorandum of appeal is preferred.

February 1.

THIS was an appeal from the decision of Mr. Justice ANSTAY, who dismissed with costs a suit brought by the appellants for the recovery of Rs. 4,648-4-8, as damages for breach of a contract by which the defendant had agreed to purchase from the plaintiffs 1,000 bales of Ambara jute.

Marriott (with him *McCulloch*), for the respondent, objected to the appeal being heard, as the appellants had not given security for costs, as required by the Rule of the Court, and by Sec. 342 of the Civ. Proc. Code. Another rule (published on the 16th of June 1865) had also been disregarded.