

1867.  
Feb. 7.*Civil Petition.**Ex parte DEVGIRGURU' SUMBHA'GIR.*

*Pauper Suit—Application from Rejection of Petition to sue—Act VIII of 1859, Secs. 301, 302, and Sec. 17—Reg. II. of 1827, Sec. v., Cl. 2.*

*Held*, that Sec. 301 of Act VIII. of 1859—requiring the petition for permission to sue *in formâ pauperis* to be presented by the petitioner in person—is imperative; and must be held to control the provisions of Sec. 17 of the same Act.

THE petitioner being in custody in the Puná Jail, under a sentence of five years' rigorous imprisonment, petitioned the Principal Sadr Amín for permission to sue *in formâ pauperis*.

The petition was rejected, as it was not presented by the petitioner in person, in accordance with the provisions of Chap. v. of Act VIII. of 1859. (*a*)

This decision was affirmed, in appeal, by the District Judge.

The petitioner now applied under Reg. II. of 1827, Sec. v., Cl. 2.

PER CURIAM (COUCH, C.J., and NEWTON J.):—Sec. 301 of Act VIII. of 1859 is imperative; and must be held to control Sec. 17 of the same Act, which provides for applications and appearances to be made by the recognised agents of parties.

*Petition rejected.*

(*a*) Sec. 301:—"The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the court in person, or if the petitioner be a female who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorised agent who may be able to answer all material questions relating to the application, and who may be able to be examined in the same manner as the party represented by him might have been examined had such party attended in person."

Sec. 302:—"If the petition be not framed or presented in the manner laid down in the last two preceding sections, the Court shall reject the petition."