

1867.
Ex parte
 DESA'I
 KALYA'NRA'I
 HAKUMATRA'I
et al.

This second or substituted schedule must be read with the light thrown upon it by Act XX. of 1862, from which it is patent that the meaning and intent of the Legislature was that the stamps prescribed in Sec. 11 of the said schedule were to be levied in the case of appeals to the High Court on the Appellate Side; and although the imperfect and very peculiar form of expression used in the section has given some foundation for the present arguments, yet we can, with the light thrown upon the section by Act XX. of 1862, entertain no doubt of the intent of the Legislature in the matter.

We therefore hold that petitions of special appeal to this court must be governed by the section in the schedule to the new Act which the Registrar has applied, and it remains for us to determine in each case whether his objections to the valuation of the claims which have been made in several of the petitions can be sustained. The present petition on a stamp of two rupees must be rejected.

GIBBS, J., concurred.

Petition rejected.

Dec. 18.

Civil Petition.

Ex parte VITHAL alias GOPAL GANESH BIVALKAR.

Stamp—Khoti estate—Act XXVI. of 1867.

Held, that a Khoti estate was an estate paying revenue to Government upon which an assessment is temporarily settled, and that a suit for its recovery should be assessed at eight times the annual assessment, under Act XXVI. of 1867, Schedule B, Art. 11, note (a), Sp. Rule 1 for the Bombay Presidency.

THIS was an application for the admission of a special appeal. The suit in the court of first instance was to recover the moiety of a khoti village in the Konkan District. The claim both in the original suit and the appeal was valued, under Act X. of 1862, at Rs. 639-7-4, this amount being equal to the annual assessment on the said moiety. In special appeal the claim was valued at Rs. 1,500, the alleged value of the estate sought to be recovered.

The Registrar of the High Court, to whom this application for special appeal was presented to be filed after Act XXVI. of 1867 had come into operation, made the following remark :—

1867.
Ex parte
 VITHAL
 alias
 GOPA'L
 GANESH
 BIVALKAR.

“It appears to me that ‘khoti’ land comes within the terms of the first Special Rule for the Bombay Presidency, Art. 11 of Schedule B of Act XXVI. of 1867. In this view the claim should have been valued at eight times the annual assessment of land revenue payable to Government. As the claim in this case is in my opinion undervalued, the petition should be brought on in court if the special appellant objects to the view I have taken.”

The special appellant having objected, the petition was brought on in court.

PER CURIAM (TUCKER and GIBBS), JJ.:—A khoti estate is an estate paying revenue to Government upon which an assessment is temporarily settled, and a suit for its recovery should, therefore, be assessed at eight times the annual assessment, under Act XXVI. of 1867, Schedule B, Art. 11, note (a), Sp. Rule 1 for the Bombay Presidency. This application must, therefore, be returned to the applicant, who will be at liberty to present it again on the proper stamp, for which purpose a month from the present date is allowed to him.

Petition rejected.