

material irregularity, so as to invalidate a sale. It would have been better if the Kárkún had not read the notices, for it is possible that that may mislead, and, therefore, it ought to be prevented. In this case, however, it was not such a material irregularity as to reduce the value of the property, and thereby vitiate the sale. These are all the objections taken, and, having disposed of them, we confirm the order of the lower court with costs.

NEWTON, J., concurred.

Order confirmed.

Special Appeal No. 416 of 1867.

1867.
 GOVIND II.
 VA'LBKAR
 v.
 BANK OF
 INDIA.
 BANK OF
 INDIA
 v.
 RA'GHO
 NA'RA'YAN.

Sept. 16.

NA'RA'YAN VYANKATESH DA'MLE.....*Appellant.*
 DHONDU' DA'MODHAR *et al.*.....*Respondents.*

Boundaries—Jurisdiction—Appeal.

In a case where *boundaries* of land are disputed (a), an appeal from the Mámílatdár lies to the Collector. A District Judge has no power to entertain such an appeal. Appeal referred to the Collector under Act XVI. of 1838.

THIS was a special appeal from the decision of A. C. Watt, Acting Assistant Judge of the Puná District, in Appeal Suit No. 14 of 1865, confirming the decree of the Mámílatdár of Havli.

The original suit was to recover certain land, the boundary of which, the plaintiff alleged, was disturbed by the defendants' including a portion of it in their own fields.

The defendants answered that they neither disturbed the boundary, nor included a portion of the plaintiff's fields in their own, as stated by the plaintiff.

The Mámílatdár, on measuring the land, and on referring to the Survey Register, found that the defendants had not included a portion of the plaintiff's land in their own; and decreed in favour of the defendants..

On appeal, the Acting Collector of Puná reversed the decree, and remanded the case for the Mámílatdár to base

(a) Sec Reg. XVII. of 1827, Sec. xxxi., Cl. 5, and Act II. of 1866. Sec. III.

1867.

NARAYAN
V. DAMLE

v.

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DAMODHAR
et al.

his decision on the village map, which had not been referred to at all.

The plaintiff's claim was again thrown out by the Mám-latdár.

On appeal, the Acting Assistant Judge confirmed the decree of the Mám-latdar.

The special appeal was argued before COUCH, C.J., and NEWTON, J.

Bhairavanáth Mangesh, for the appellant:—The Acting Assistant Judge had no jurisdiction in this case, which referred to boundary disputes, as boundary disputes have been excluded from the jurisdiction of Civil Courts by (Bombay) Act No. II. of 1866. In this case the appeal was, in the first instance, presented to the Collector, and it was that officer who referred it to the Judge. Even if the appellant himself had voluntarily appealed to the Judge, still, as consent of parties does not confer jurisdiction, the Judge would have had no right to hear the appeal.

Dhirajlál Mathurádás, for the respondent, admitted that he could not support the decree, and said that, under Act XVI. of 1838, the Court could annul the decree, and refer it to the Collector.

COUCH, C.J.:—We must annul the decree; and refer the appeal to the Collector to be heard by him. Each party to bear his own costs in appeal.

Decree annulled.