

1868.
Feb. 6.

Referred Case.

MULCHAND JETHANNA' *Plaintiff.*
KIKI' VARDHVA'N *Defendant.*

*Review of Judgment—Small Cause Court—Instalment—Act XI.
of 1865, Sec. 21.*

Held that it is not necessary for a defendant in a Small Cause Court to deposit the amount of the decree in court, when applying for a review of judgment for the purpose of obtaining an order to pay by instalments.

IN this case the Judge of the Small Cause Court at Ahmed-ábád referred, under Sec. 1 of Act X. of 1867, for the decision of the High Court, the following question :—

“ Whether or not the defendant who applies for a review of judgment with the only object of obtaining an order for payment of the debt by instalments, must deposit in court the amount of the decree.”

PER CURIAM (COUCH, C.J., and NEWTON, J.):—In such a case as is stated by the Judge, it is not necessary to deposit in court the amount for which the decree was obtained.

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Referred Case.

Feb. 6.

NAVROJI PESTANJI *Plaintiff.*
MANSUKH JAYACHAND *Defendant.*

*Review of Judgment—Small Cause Court—New Trial—Act XI. of
1865, Sec. 21.*

If an application for a review of judgment made by a defendant in a Small Cause Court be in the nature of an application for a new trial, the amount of the decree, though made payable by instalments, must be deposited in court, under Sec. 21 of Act XI. of 1865.

QUESTION referred for the decision of the High Court, under Sec. 1 of Act X. of 1867, by Gopálráv Hari Deshmukh, Judge of the Small Cause Court at Ahmedábád :—

“ Whether or not a defendant can apply for a review of judgment without depositing in court the amount of the decree passed against him, when the decree is for money to