

*Reerred Case.*1868.
June 11.

GOPAL JAYACHAND,.....*Plaintiff.*
HARGOVIND KHUSHA'L *et al.**Defendants.*

Vakil—Power to plead—Vakálatnámá—Civ. Proc. Code, Sec. 246.

The *vakil* retained by the plaintiff in a suit in which a decree has been given for the plaintiff, is competent to plead for his client in answer to a claim advanced (under the first portion of Sec. 246 of the Civil Procedure Code) to property attached in execution of such decree, without the production of a fresh *vakálatnámá*.

CASE and Question submitted for the decision of the High Court, under Act X. of 1867, Sec. 1, by Gopálráv. Hari Deshmukh, Judge of the Court of Small Causes at Ahmedábad :—

“The question is, whether or not a *vakil* of the plaintiff, engaged in a suit in which he obtained judgment in favour of his client, should be permitted to plead for him, in answer to a claim advanced under Sec. 246 of the Code of Civil Procedure, to certain property attached in execution of that judgment without a fresh *vaká'atnámá*. I am of opinion that a *vakil* should be allowed to plead for the plaintiff as above stated. A *vakil* in a suit is allowed to apply for execution of judgment without a fresh power, and the claims to attached property are incidental to the execution of decrees.”

PER CURIAM (NEWTON, Acting C. J., and TUCKER, J.) :—As, under Sec. 246 of the Code of Civil Procedure, the Court is to investigate a claim of the character therein described with the like powers as if the claimant had originally been made a defendant to the suit, we are of opinion that the pleader retained by the plaintiff in the original suit may be permitted to plead for him with respect to any claim preferred or objection offered under the first portion of the said section without producing any additional *vakálatnámá*.