

defendant, state that they both were the Cantonment Magistrates at Ahmedábád, and that the rule was fully carried out as respects the Court of Request in the camp (Acts XI. of 1841 and XII. of 1842), and that it has been publicly and repeatedly notified to the camp traders."

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 KOTVAL.

PER CURIAM (COUCH, C.J., and NEWTON, J.):—The Court is of opinion that the rules and orders in the Military Code are not binding on the Small Cause Court.

*Referred Civil Case.*

July 14.

CHOTA LAL AMRITLAL.....Plaintiff.  
 BOMBAY, BARODA, & CENTRAL INDIA RAIL-  
 WAY Co. ....Defendants.

*Stamp—Description of Document—Civ. Proc. Code, Sec. 40.*

Held that the description of a document delivered to the Court under Sec. 40 of the Code of Civil Procedure is neither a petition nor an application, liable to duty within the meaning of the Stamp Act.

CASE referred for the decision of the High Court by Goparáy Hari Deshmukh, Judge of the Small Court at Ahmedábád, under Sec. 22 of Act XI. of 1865:—

Question—"Whether the description of a document required by the plaintiff from the defendant, under Sec. 40 of Act VIII. of 1859, delivered to the Court that the same may be called for from the defendant, under Sec. 43 of the same Act, should be considered the first application for the summons of a witness to produce a document which is exempted from stamp duty by Act XXVI. of 1867, Sec. 6, Art. 10."

The Judge was of opinion that the description should not be considered the first application for the summons of a witness to produce a document, or 'in respect of the production or filing of any exhibit' which is exempted from stamp duty by the Act above quoted. The exemption should, he thought, apply to the first application made subsequent to the description, which is always given with the plaint.

PER CURIAM (COUCH, C.J., and NEWTON, J.):—The Court is of opinion that the description of the document given

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under Sec. 40 of the Code of Civil Procedure, is neither a petition nor an application, liable to duty within the meaning of the Stamp Act, and the question whether the exemption applies to it does not arise. If the description were to be regarded as an application for a summons to the defendant, under Sec. 43, to produce the document, then it would necessarily be the first application within the meaning of the exemption.



July 21.

*Miscellaneous Regular Appeal No. 2 of 1868.*

MAKUNDA' valad BA'LA CHA'RYA ..... *Appellant.*  
 SITA'RAM and NILO..... *Respondents.*

*Limitation—Old Decrees—Act XIV. of 1859, Secs. 20 and 21.*

Sec. 21 of Act XIV. of 1859 is to be read as an independent section, and distinct from Sec. 20 of that Act.

*Bai. U'dekúvar v. Múlji Naran* (3 Bom. H. C. Rep., A.C.J. 177) followed.

Where the holder of a decree which was in force when Act XIV. of 1859 came into operation applied for execution on the 5th of December 1864, but allowed that application to drop, and again applied for execution on the 28th of March 1866 *it was held* that he was, barred by the law of limitation.

**T**HIS was a Miscellaneous Appeal from an order made by R. H. Pinhey, District Judge at Tháñá, under date the 22nd of November 1867, in the matter of the execution of a decree.

The appellant, having obtained an arbitration award in his favour on the 9th of February 1857, which was then filed in court under Reg. VII. of 1827, presented, on the 5th of December 1864, an application for its execution as a decree of court under cl. 1, Sec. ix. of the said Regulation; but, as he did not appear to prosecute it, no proceeding was taken on the application, and it was dismissed on the 18th of January 1866. Subsequently the applicant made another application for execution on the 28th of March 1866, but the Judge rejected it, making the following order:—

“ I reject this application under Sec. 21 of Act XIV. of 1859. The decree, which the plaintiff seeks to execute,