think that it would not be the exercise of a sound discretion to allow a party who relies upon a document to set up a fresh case, when an issue as to the execution of such document is found against him, and there are good grounds for believing that the document is a forgery" (*Vide* Marshall's Reports, p. 71). But there was no forgery in this case, and, therefore, it might have been that the Senior Assistant Judge would not have done wrong in making a decree against the principal. But that was a matter in his discretion, and, as there is no error in law, we must confirm his decree with costs.

NEWTON, J., concurred.

Decree reversed.

Special Appeal No. 293 *of* 1868.

Sep. 8.

HARI DHANGAR *et al.* .....*Appellants.*
BIRU DASRU *et al.* .....*Respondents.*

Thirty Years' Rule—Ancient Documents.

The rule regarding the proof of documents more than thirty years old is that they need not be proved, provided they have been so acted upon, or brought from such a place as to offer a reasonable presumption that they were honestly and fairly obtained and preserved for use, and are free from suspicion of dishonesty.

THIS was a Special Appeal from the decision of A. C. Watt, Acting Assistant Judge of the District of Sátárá; in Appeal No. 368 of 1866, reversing the decree of Vidyádhar Chintámaṇ, Munsif of Karád.

The plaintiffs sued to establish their right to perform divine service at a temple, and to recover some property attached to it.

The defendants denied the plaintiffs' right.

The Munsif decreed for the defendants.

The Assistant Judge, on appeal, held that exhibit No. 8, which purported to contain an admission in the plaintiffs' favour by persons from whom the defendants derived their

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HARI DHANGAR *et al.* *v.* BI'RU DASRU. *et al.*

title, was a document coming from proper custody, and more than thirty years old, and, therefore, proved itself. He, therefore, upon the strength of this and another document, reversed the Munsif's decree and awarded the plaintiff's claim.

The Special Appeal was heard before WARDEN and GIBBS, JJ.

Shántárám Náráyan for the appellants.

Bhairavanáth Mangesh for the respondents.

PER CURIAM :—The Court find that the Assistant Judge was in error in holding that the exhibit No. 8 proved itself, owing to its being more than thirty years old, and coming from proper custody. This is not sufficient : *vide* S. A. No. 966 of 1864 in which the rule laid down with regard to ancient documents of more than thirty years is that they need not be proved, provided that they have been so acted upon, or brought from such a place as to offer a reasonable presumption that they were honestly and fairly obtained and preserved for use, and are free from suspicion of dishonesty (*a*). The decree of the lower appellate court is, therefore, reversed, and the case remanded for the District Judge to determine, upon the evidence already recorded in the case, whether exhibit No. 8 is admissible in evidence, and on whom it is binding, and to pass a new decree, awarding costs.

Decree reversed and case remanded.

(*a*) 2 Phillipps on Evidence, p. 246.

NOTE.—S. A. No. 966 of 1864 was decided by Couch and Warden, JJ., on 26th June 1864. In S. A. No. 229 of 1868, decided on the 7th of October 1868, Couch, C. J., and Newton, J., followed the ruling in the above case (S. A. No. 293).