

within which the property taken in execution may be ordered to be sold after attachment, that point being provided for by Sec. 249, which directs that in the case of moveable property 'the sale *shall not take place* until after the expiration of at least fifteen days,' &c."

1868.
SADASHIV
MORESHVAR
v.
HANSO SHRA-
VAN.

PER CURIAM (COUCH, C. J., NEWTON and GIBBS, JJ.) :—
Articles of such a perishable nature that they cannot be kept for fifteen days, and sold according to the Code of Civil Procedure ought not to be taken in execution. The Court concur in the remarks of the Judge upon Sec. 250 of the Code.

Special Appeal No. 384 of 1868.

Oct. 8.

NA'RA'YAN bin BA'BA'JI *et al.* *Appellants.*
GANGA'RAM bin KRISHNA'JI *Respondent.*

Mortgage—Interest—Rule of Hindū Law.

The rule of Hindū Law, which declares that interest exceeding in amount the principal sum cannot be recovered at any one time, is not applicable to mortgage transactions.

THIS was a Special Appeal from the decision of A. C. Watt, Assistant Judge of the District of Sātárá, in Appeal No. 444 of 1867, confirming the decree of Raghvendra Rámáji, Munsif of Wái.

The plaintiff sued to redeem a house on payment of the mortgage money. The defendants contended that, by the conditions of the mortgage bond, the house had become their absolute property.

The Munsif found that the principal sum due on the mortgage was fifty rupees, but as the defendants had, on the faith of decisions previous to *Rámji v. Chinto*, made additions, he considered eighty rupees was also due to them on that account. With regard to interest, the Munsif restricted it to the amount of principal. His decree accordingly was for one hundred and eighty rupees.

The Assistant Judge, on appeal, concurred in the Munsif's view, and confirmed his decree.

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

1863.

NĀ'RA'YAN
BĀ'BA'JI

v.

GANGA'RA'M
KRISHNA'JI
et al.*Shāntārām Nārāyaṅ* for the special appellant.*Dhirajlāl Mathurādās* for the special respondent.

PER CURIAM:—The Court considers that the lower courts were in error in applying the Hindú Law of "*Dāmdupat*" to mortgages, this Court having held on several occasions that it did not apply to mortgages. The decree of the Acting Assistant Judge is, therefore, reversed, and the case remanded for an account to be taken of the principal sum due under the mortgage bond No. 12, and also of interest according to the terms of the said mortgage bond, to the date of the filing of the suit, on the sum agreed on; and further of interest, at the same rate, on the whole of the principal, from the date of filing the suit to that of taking the account; and that an account be taken of the rents and profits from the date of possession being given of the mortgage property to that of taking the account.

If a balance be found due by the plaintiff to the defendant, the lower appellate court will pass a decree directing the plaintiff to pay the same within six months from the date of decree, with interest at the rate of nine per cent. per annum, to be for ever foreclosed; if no balance be found due by the plaintiff, the Court is to direct that the property be forthwith returned to him.

Decree reversed, and suit remanded.

Referred Case.

Oct. 8.

BAJI DEV *Plaintiff.*
SADA'SHIV BHA'ISHANKAR *Defendant.*

Mámlatdár—Power to break open doors—Act V. of 1864 (Bombay).

A Court authorised under Act V. of 1864 (Bombay) to give immediate possession of lands and premises has the power to direct the breaking open of a door when necessary to give effect to its decree.

IN this case the Mámlatdár of Ahmod, in the Súrat District, having ordered that immediate possession of certain property should be given to the applicant, under Bombay Act V. of 1864, carried out the decision by deputing a person forcibly to break open the door of the house in dis-