

*Special Appeal No. 12 of 1869.*1869
April 5.

Nilowa...	<i>Appellants.</i>
Fakirappa...	<i>Respondent.</i>

Jurisdiction—Special Appeal—Political Agent.

A Special Appeal lies from the decision of the Political Agent of the Southern Maratha Country passed in Regular Appeal.

This was a Special Appeal from the decision of G. A. Anderson, Political Agent, Southern Maratha Country, reversing the decision of the Civil Court of the Sardeshgat of Navalgund.

The plaintiff, Nilowa, as guardian of her sons, sued the defendant Fakirappa to recover possession of certain lands, alleging that the same had fallen to her share at a division of the family property made under a deed of partition dated 26th January 1866. The defendant denied the execution of the deed and contended that the plaintiff's husband had separated 22 years before.

The Desai of Navalgund, who exercised civil jurisdiction under Reg. XIII. of 1830, awarded the claim; but, on appeal his decision was reversed by the Political Agent, on the ground that the deed of partition was not registered as required by section 13 of Act XVI. of 1864, and that therefore it was not admissible in evidence.

The case was heard this day before Courcu, C. J., and GIBBS, J.

Shantaram Narayan for the Appellant.

Ganpatrav Bhaskar for the Respondent.

Ganpatrav Bhaskar—No Special Appeal lies against the decision of a Political Agent: section 5 of Reg. XIII. of 1830 provided for Special Appeals being received under the Rules contained in Chap. XXII. of Reg. IV. of 1827, but the latter is now repealed, and, therefore, there is no provision under which a Special Appeal can lie in such cases.

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Shantaram Narayan.—The concluding part of sec. 384 of the Code of Civil Procedure is quite clear on the point ; there is a case in point. A Regular Appeal No. 10 of 1863 was allowed against the decision of the Political Agent at Kolapur.

COUCH, C. J.—There is no doubt that a Special Appeal lies in this case, and we must therefore hear the Appeal.

Shantaram Narayan.—The Agent was wrong in holding that the deed of partition required registration under Act XVI. of 1864, because, as the place was a non-Regulation District, the law of Registration was required to be specially extended to it. Act XVI. of 1864, section 71.

COUCH, C. J.—Navalgund having been brought under the Regulations by Reg. VII. of 1830, the law of Registration as contained in Reg. IX of 1827, as well as the new Registration Act of 1864, should be considered to be in force there, and the Political Agent has rightly held that the deed of partition being unregistered is invalid. We must therefore confirm his decision with costs.

Decree confirmed.