

months from the date of this decree, or that, in default, they be foreclosed of all right or equity of redemption in or to the said property.

1869

Vithal Mahadev  
et al.  
v.  
Daud Muham-  
mad Husen  
et al.

Newton, J.—Concurred.

*Decree modified.*

*Referred Case.*

Balaji Mahadev. ... *Plaintiff.*  
Krishnaji bin Chinnaji et al. ... *Defendants.*

April 20.

*Stamp—Single document containing two contracts.*

Where a document contained two distinct contracts requiring separate stamps, but the whole was impressed with one insufficient stamp it was held, that, this stamp might be taken into account in making up the aggregate of the stamps required.

Case stated for the opinion of the High Court by Janardan Vasudevji, Judge of the Court of Small Causes at Puna under sec. 22 of Act XI. of 1865:—

“The two suits have been instituted by the same plaintiff against two different individuals and against their surety, who is the same in both cases, on a promissory note which runs as follows:—

“We, Sambhu bin Mahadji Khengra and Krishna bin Chinnaji Khengra, Thalkari of Mouje Rihe, Tarf Pavan Maval, execute this note unto Balaji Mahadev Ketkar, to wit, that we purchased from you, on the 5th Vaishakh Vadya, the following quantities of grass at Rs. 20 per 1,000 bundles out of the stock which you had bought at Mouje Rihe, namely:—

|  |       |   |   |
|--|-------|---|---|
| “I, Sambhu bin Mahadji Khengra, (bought) 500 bundles of grass, the price of which is.....Rs.     | 10    | 0 | 0 |
| “I, Krishnaji bin Chinnaji Khengra, (bought) 400 bundles of grass, the price of which is.....Ra. | 8     | 0 | 0 |
|  | <hr/> |   |   |
| “Total Rs.....   | 18    | 0 | 0 |

In words, eighteen. Interest on this is to run at one per cent. per mensem from the date on which the grass was purchased. We promise to pay the principal with interest in the month of Margashirsh of the cur-

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rent year before the Purnima (the 15th of the month) &c. &c. 'For this, I, Bali bin Bahiru Khengra, Thalkari of the same village, stand security. The debtors will pay as stipulated above. Should they fail, I will, without referring (you) to the debtors, pay according to the terms of the above agreement, &c.'

"The promissory note does not contain any words which may go to fix one principal debtor with liability for the debt of the other, though the surety is the same for both. The liability of each is restricted to his own debt. The agreements of the two principal debtors are, therefore, two distinct contracts, though written on one paper, there being no community of interest between them; and, as such, each requires a separate stamp of two annas. The document, however, has a stamp of two annas impressed on it, and a question here arises whether the stamp already borne by the instrument may be taken into account in making up the aggregate of the stamps required for the two agreements. I should think that it should not, as it cannot be ascertained to which of the agreements the stamp used was intended to be applied, and the English cases (cited in Chitty on Contracts, 6th edition, page 118) in connection with this subject, seem to support this view."

PER CURIAM (COUCH, C. J., and NEWTON, J.):—The Court is of opinion that the stamp of two annas already on the instrument may be taken into account in making up the aggregate of the stamps required.