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whereas it should have borne a twelve-annas stamp, as being a promissory note for a sum exceeding Rs. 900 and under Rs. 1,200 payable otherwise than on demand.

The fourth question—whether the learned Chief Judge of the Court of Small Causes had power to receive the amount of the stamp duty and penalty tendered—we answer in the negative. Sec. 28 of Act XVIII. of 1839, in our opinion, clearly prohibits the reception in evidence under Sec. 20 of that Act of a promissory note, such as the present, not bearing the stamp required by law.

We have, in order to save time and possible further expense to the parties, answered these questions, although the case has been somewhat irregularly referred to this court, as indeed the learned Chief Judge himself seems to have thought. We now remit the cause to the Court of Small Causes to be disposed of in conformity with our answers to the second, third, and fourth questions; and, under the circumstances under which this case has been referred to us, we must also leave to that court the disposal of the costs of this reference.

Suit No. 561 *of* 1870.

Dec. 22.

NARSINGDA'S MULTA'NCHAND .....*Plaintiff.*
NAHA'NUBA'I, widow of Baldev Taklá, and another .....*Defendants.*

Suit No. 645 *of* 1870.

SUMA'RMAL JOHA'RIMAL .....*Plaintiff.*
NAHA'NUBA'I, widow of Baldev Taklá and another .....*Defendants.*

Practice—Service of Writ of Attachment—Execution—Priority.

In considering which of two writs of attachment in execution of a decree is to have priority over the other, the time when the writs are lodged in the office of the Sheriff is the criterion by which priority is to be determined, and not the time when such writs reach the hands of that officer.

THESE were two suits brought against the widow and son of Baldev Taklá, deceased, as his legal representatives.

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Judgment was given for the respective plaintiffs on the same day (the 29th of November 1870).

The decree in Suit No. 645 of 1870 was issued to the attorney of the plaintiff from the office of the Prothonotary, about an hour and a half before the decree in Suit No. 561 of 1870 was issued to the plaintiff's attorney in that suit; and subsequently writs for the attachment of certain moneys, in the hands of the Prothonotary and of the Sheriff respectively, belonging to the estate of Baldev Taklá, were also issued from the Prothonotary's office, in the same order of time, to the respective attorneys of the plaintiffs.

The writs in Suit No. 645 of 1870 were, on being so issued, lodged, in the usual course, in the offices of the Sheriff and Coroner respectively, that in the office of the Sheriff for service on the Prothonotary, that in the office of the Coroner for service on the Sheriff. These writs were served in due course.

The writs of attachment in Suit No. 561 of 1870 were, subsequently in point of time to the lodging of the writs in Suit No. 645, handed for service to the Sheriff and Coroner's bailiff respectively in person, these officers being at the time absent from their offices; and these latter writs were in consequence actually executed a few minutes earlier than the writs in Suit No. 645 of 1870, without being lodged in the first instance in, or having passed through, the respective offices of the Sheriff and Coroner.

Upon affidavits setting out the above facts, a summons was granted, on the 8th of December 1870, calling upon the plaintiff in Suit No. 561 of 1870 to show cause why the plaintiff in Suit No. 645 of 1870 should not have priority in recovering the sums of Rs. 2,250 and Rs. 2,624 attached in the hands of the Prothonotary and Sheriff respectively.

Cause was shown before BAYLEY, J., in chambers on the 19th of December 1870.

McCulloch contended that the plaintiff whose writ was first served was entitled to priority.

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The Honorable A. R. Scoble (Acting Advocate General), in support of the summons, contended that, as the usual course was to lodge writs of attachment in the office of the Sheriff for execution, the plaintiff who first so lodged his writ was entitled to priority, and the Sheriff and Coroner by changing the order of execution could not alter the legal rights of the parties. He cited Archbold, Queen's Bench Practice, Vol. I., ch. XXVI., para. 12, p. 545 (8th ed.).

22nd Dec. BAYLEY, J. (after taking time to consider) directed the summons of the 8th of December to be made absolute with costs, and said that, as the offices of the Sheriff and Coroner respectively were the proper places for the delivery of writs of attachment for execution, the plaintiff who first lodged his writs in these offices was entitled to priority.

Summons made absolute.

Attorneys for the plaintiff in Suit No. 561: *Hearn, Cleveland, and Peile.*

Attorney for the plaintiff in Suit No. 645: *Khanderáv Moroji.*