

*Special Appeal No. 70 of 1870.*1870
April 1.

DA'MODHAR BA'PU'JI PA'CHA'PURKAR *Appellant.*
 ZINGA' KOM KANDLIKA' *Respondent.*

Certificate of Administration, Order for—Order reversed—Unauthorised Payments.

Where a widow obtained an order for a certificate of administration to the estate of her deceased husband, which order was, however, reversed on appeal before the certificate was granted :

It was held that payments made to the widow before the order was reversed were unauthorised.

THIS was a special appeal from the decision of R. F. Mactier, Judge of the district of Sátará, in Appeal Suit No. 274 of 1869, confirming the decree of the Subordinate Judge of Sátará.

The facts of the case are briefly these :—In the month of January 1866 one Náro Bápúji Páchápurkar died leaving a brother, the present plaintiff, Dámodhar, and a widow named Jánkibái. The latter applied to the District Judge of Sátará for a certificate of administration to the estate of her husband, and in November 1866 an order was passed directing the grant of such certificate. Under the authority of this order Jánkibái at once set about collecting her husband's debts, and many debtors, among whom was the defendant, Zingá, paid her the debts due to the deceased, although no certificate had in fact been granted to her. In the meanwhile, an appeal having been preferred to the High Court, the order of the District Judge in favour of Jánkibái was annulled, and a certificate to administer his brother's estate was issued to Dámodhar, on the 20th of December 1867.

Upon the strength of this certificate Dámodhar sued the defendant, Zingá, to recover a sum of money due on a mortgage bond. Zingá admitted the execution of the bond, but pleaded that she had paid the debt to Jánkibái, who was for the time being the sole manager of the deceased Náro's estate, and had obtained a receipt from her.

1870.
 D'AMODHAR B.
 PANCHAL-
 PURKAR
 v.
 ZINGA.

The Subordinate Judge of Sátará threw out the claim, and the District Judge upheld his decision.

The special appeal was argued before GIBBS and LLOYD, JJ.

Shántarám Náráyan, for the special appellant:—The District Judge was wrong in holding that a payment made to a person who had only obtained an order for the grant of a certificate of administration was binding against the party who actually got such a certificate in supersession of the order. This is opposed to the ruling of the High Court in *Dámódhar Bápúji v. Rávji* (22nd December 1869).

There was no appearance for the special respondent.

PER CURIAM:—This question has been already before the High Court. Náro's widow had obtained an order from the District Judge for a certificate of administration to the estate, but before the certificate was granted the High Court interfered. Náro's widow, however, set about collecting debts, and some debtors paid her, among them was Zingá. As she paid to a person not legally authorised, she must pay it again; and we must reverse the District and the Subordinate Judges' decrees, and award in favour of the original plaintiff. (Miscellaneous Special Application *In re Dámódhar Bápúji v. Rávji*, * per COUCH, C.J., WARDEN and GIBBS, JJ.)

Decrees reversed, and plaintiff's claim awarded.

* NOTE BY THE REPORTER.—In this case the facts were similar to the present one. The defendant, Rávji, was another of the debtors who had paid to Jánkibái before the order of the District Judge had been superseded by a grant of the certificate to Dámódhar. Although the claim against him, being on a simple bond for less than five hundred rupees, was cognisable by a Court of Small Causes, and, therefore, not specially appealable, the High Court reversed the order of the District Judge in favour of Rávji, in the exercise of its extraordinary jurisdiction, as it was of opinion that, as Jánkibái had not been furnished with a certificate, Rávji was not justified in paying the money to her.