

1871.
Dec. 21.

Special Appeal No. 410 of 1871.

FAKIRA', heir of BASA'PA' deceased.....*Appellant.*
BASA'PA' MA'HA'DAN SHETTI.....*Respondent.*

Review—Delay—Jurisdiction.

After the expiration of the period allowed by law for making an application for a review, the Court has no jurisdiction to entertain it without just and reasonable ground to the satisfaction of the Court being assigned for the delay. Preferring an appeal is not a just and reasonable cause for not preferring an application for review.

Where the Court granted a review without any cause having been assigned for the delay, and varied its former decree, the High Court, reversing all that was done under the review, restored the former decree.

THIS was a special appeal from the decision of Baron A. De H. Larpent, Acting Judge of Dhárwár, amending in review the decree passed by J. R. Daniell, Assistant Judge at that station, in Appeal No. 132 of 1866, which reversed the decree of the Principal Şadr Amín of Dhárwár, rejecting the plaintiff's claim.

The plaintiff sued upon an agreement to recover a quantity of grain. The defendant denied the agreement, and pleaded non-indebtedness. The court of first instance rejected the claim, it being of opinion that the agreement was suspicious. Mr. Daniell, in appeal, found the agreement proved, and reversed the Principal Şadr Amín's decree on the 23rd of October 1866. On the 18th of February 1867 a special appeal was preferred against this decision to the High Court, which, on the 2nd of July 1867, permitted the defendant to withdraw his special appeal. On the 27th of September 1869, the plaintiff, without in any way accounting for the delay in preferring his application for review, represented that Mr. Daniell, although he had reversed the Principal Şadr Amín's decree rejecting his claim, had made no award in his favour, and requested that the award intended to be made in the judgment should be formally made in the decree. Baron De H. Larpent, to whom the application was made, granted the review, and on the 2nd of March 1871 awarded to the plaintiff a certain quan-

tity of grain or its value. Against this a special appeal was preferred. It was heard by LLOYD and KEMBALL, JJ.

Dhīrajāl Mathuraddās, Government Pleader, appeared for the appellant.

Fakirāpa Lingāpā appeared for the respondent.

PER CURIAM:—The decree in this case was passed on the 23rd of October 1866; the application for review was presented to the District Court on the 27th of September 1869. The law requires that the application shall be made within ninety days from the date of decree, unless “just and reasonable ground to the satisfaction of the Court” is shown for the delay.

No reason is assigned in the application for the delay, nor has the Judge, in his order allowing the review, made any reference to the subject. It is true that a special appeal was preferred to this court by the defendant, which was not disposed of till the 2nd of July 1867; but the time so occupied would not form a just and reasonable cause for the delay in preferring the application—*vide L. T. Lucas v. W. Stephen and others (a)*—and beyond this there is a period of more than two years altogether unaccounted for. We must, therefore, hold that the Judge had no jurisdiction to admit this application for review, and that all that has been done under it must fall to the ground.

The decree of the Judge, dated 2nd March 1871, must be reversed. Each party to bear his own costs.

Decree reversed.

(a) 9 Calc. W. Rep., Civ. R. 301.

1871.

FAKIRĀ'

v.

BASĀ'PĀ' M.
SHETTI.