

or manager has been guilty of malversation and ought to be removed from his office, may remove him, and may, in such a suit, enforce the production of books and accounts by fine and imprisonment, and make all necessary orders as to costs, even to award such costs out of the minor's estate to the friend or relative who has brought a beneficial suit for the minor. It may well happen that in such a suit the defendant, if a defaulting manager, may be insolvent and unable to pay costs, and it would be unjust that the plaintiff should not be recouped for his outlay in costs on behalf of the minor.

Where any Court, other than the principal Civil Court, is intended to have jurisdiction under the Act, it is specially so provided in the Act: as, for instance, in the concluding provisos in Sections 2 and 5.

Holding these views, we are of opinion that the decrees of the Courts below must, on the ground of want of jurisdiction in the Court of the Subordinate Judge, be reversed, and that there must be a decree for the defendant with costs of the suit and both appeals.

[APPELLATE CIVIL JURISDICTION.]

Referred Case.

April 22.

In re KESHAV KA'SINA'TH.

Stamp—Power of attorney—Act XVIII. of 1869, Article 13 Schedule II.—Act VIII. of 1871, Section (a) 33.

For a power of attorney executed under the provisions of Section 33 (a) of the Indian Registration Act of 1871 (Act VIII. of 1871) a stamp of 8 annas is sufficient under Article 13 Schedule II. of the General Stamp Act (No. XVIII. of 1869).

THIS case was stated by the Revenue Commissioner, S. D., under the provisions of Section 41 of the General Stamp Act, for the decision of the High Court, on a reference from the Collector of Puna.

The facts are sufficiently stated in the following letter of the Collector :—

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v
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DA'S
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“Under Section 40 of the General Stamp Act, I have the honor to report, for your revision, the facts of a case involving a difference of opinion between the Collector of Sátára and myself regarding the stamp duty required for a power of attorney to effect registration of a document.

“A power of attorney, duly executed and authenticated according to Section 33 (a) Indian Registration Act of 1871, was given by one Keshav Ganesh to one Keshav Kásináth Gádgil, authorizing him to do every thing necessary for the executant to complete registration of a deed of sale of a house executed by the said Keshav Ganesh in consideration of a sum of Rs. 250. This power was drawn upon a stamped paper of 8 annas value, as required by Article 13 Schedule II. of the General Stamp Act, and was in due course produced before the Sub-Registrar of Wái, who, holding that it required a stamp of the value indicated in Article 18, Schedule II., of the General Stamp Act, impounded the document, and forwarded it to the Collector under Section 23 of the Stamp Act. The Collector of Sátára, concurring in this opinion, forwarded the papers to me for the recovery of the additional money (8 annas) required to make up the stamp duty adjudged to be due.

“Being of opinion that Article 18 does not apply to a power of attorney to perform the act of registering a deed for a principal, and that such power is specially provided under Article 13 of Schedule II. of the Stamp Act, taken in connection with Section 33 of the Registration Act of 1871, I replied that the document appeared to bear a sufficient stamp.

“The Collector of Sátára thereupon forwarded to me the appended copy of a letter addressed to him, as Registrar, by the Registrar General, under date 30th May 1871, in which he expressed the following opinion, concurred in, as he states, by the Commissioner of Stamps :—

- (a) That a power of attorney under Article 13 Schedule II. of the Stamp Act is not sufficient to entitle a person holding it to admit execution of a document.

- (b) That, unless a general power of attorney had been granted, two powers would be required, one under Article 13, and another under Article 18 or 19, according to the value of the matter dealt with.

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“I am of opinion that this ruling is incorrect, and that the ordinary powers of attorney contemplated under Articles 18 and 32 of the second Schedule of the Stamp Act are not recognizable for purposes of Section 32 (Section 34 of the Act, 1866) of the Indian Registration Act of 1871, because Section 33 (Section 35 of Act of 1866) of the said Act describes a special power of attorney which shall alone be recognized, and which seems to have been specially provided for in Article 13, Schedule II., of the General Stamp Act of 1869.

“Furthermore, the argument on which the opinion of the Registrar General, concurred in by the Commissioner of Stamps, (the Collector of Bombay and Superintendent of Stamps, I presume,) is based, appears unsound for several reasons. He says: ‘*I hold that though admission of execution is incidental to presentation for registration, yet they are two distinct Acts.*’ Neither the letter nor the spirit of the Registration Law seems to warrant this conclusion. Part VI. of the Act is headed ‘Of presenting documents for Registration.’ Its opening Section, 32, lays down that the document may be presented by the executing party or his agent duly authorized by power of attorney, and its closing Section, 35, rules that if any person appear by agent, and the agent admits the execution, the registering officer shall register the document. There is no mention of a second power of attorney being required. There is no mention of a general power of attorney. The term general power of attorney is not found in the Stamp Act (*vide* Sections 13, 18, 19, and 32, Schedule II.). The whole tenor of Part VI. of the Registration Act, and the coincidence of the wording on the margin of Section 32 with the wording of Article 13 of Schedule II. of the Stamp Act, convince me that the words ‘*to present for registration*’ do not mean only the mere act of presentation, but include the further action

1872. required to complete registration. Again, how can the ruling objected to by me possibly apply when the value of the matter dealt with is not stated, or when the matter dealt with has no value that can be stated in money?

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If you concur in the arguments I have above set forth, I suggest that the case is a proper one to lay before the Honourable Judges of Her Majesty's High Court of Judicature at Bombay under Section 41 of the Stamp Act for a final decision of the question at issue."

The case was considered by WESTROPP, C.J., GIBBS and BAYLEY, JJ., on the 22nd of April 1872.

PER CURIAM:—The Court concurs with the Revenue Commissioner and the Collector of Púna for the reasons assigned by them, that one power of attorney is sufficient under Section 13 of Schedule II. of the Stamp Act in the case submitted for its consideration, and that no further stamp than that of 8 annas under the said Article is required.

[APPELLATE CIVIL JURISDICTION.]

May 1.

Miscellaneous Appeal No. 10 of 1870.

NA'KODA' ISMA'IL valad A'HMED BARUCHA' *Petitioner.*
KA'SSAM valad AZAM DUPLI*Respondent.*

*Assignment of Decree—Application for execution—Civ. Proc. Code,
Sec. 208.*

A person claiming to be the assignee of a decree should apply for recognition of his title to the Court which pronounced the decree and for leave under Section 208 of the Civil Procedure Code to have his name substituted in lieu of that of the plaintiff.

THIS was a miscellaneous appeal from an order of Mukan-drái Munirái, First Class Subordinate Judge at Súrat.

The respondent, Kássam valad Azam Dupli, obtained a decree in the Recorder's Court at Rangoon against one Kássam Mahomed Baruchá and Husen Mahomed Baruchá. On the application of Kássam Dupli, the decree in