

Appeals, under the Minor's Act XX. of 1864, No. 6 of 1870, 1874.
 decided 6th February 1871, and Nos. 10, 11, 14 and 15 of MOTIRÁM
 1871, decided 12th February 1872. See also *Vijhor v. RU'PACHAND*
Jijibhái (b).

Order accordingly.

[APPELLATE CIVIL JURISDICTION.]

Special Appeal No. 233 of 1873.

March 30.

HARI YEMA'JI and others... *Defendants and Appellants.*

PARSHRÁM GUNDO *Plaintiff and Respondent.*

Rent—Notice of enhancement.

An *Inamdar* is not entitled to recover an increased rent if he has given notice of such increase in December 1870 for the current year 1870-71.

THIS was a special appeal from the decision of R.F. Mactier, District Judge of Satara, amending the decree of the Subordinate Judge of Karar.

Parshrám Gundo sued to recover the rent of certain *Inám* land belonging to him, for two years, viz., Rs. 20 for Shake 1791, and Rs. 50 for 1792, the latter being enhanced rent, and alleged that he had given notice of enhancement to the defendants. Hari and others denied the plaintiff's right to the enhanced rent. The first Court gave the plaintiff a decree for rent at the usual rate, rejecting his claim to the enhanced rent demanded. In appeal, this decree was amended by the District Judge who granted the enhanced rent claimed by the plaintiff for Shake year 1792 (A.D. 1870-71). In special appeal the case was remanded by the High Court for the determination by the lower appellate Court of certain issues one of which was :—Was notice of enhancement given in this case, before the beginning of the season of cultivation for which an enhanced rent was demanded ?

On this issue the District Judge returned the following findings—

1874.

HARI,
YEMA'JI
v.
PARSHRAM
GUNDO.

“The season for which an enhanced rent was claimed for this land is that, commencing 5th June 1870, as shown by the notice, dated December 1870, which claims enhanced rent for the season 1870-71. Cultivation would commence after the “*mrigsál*” of 1871 or June 5th, and this notice was, therefore, *about six months previous* to the season for which enhanced rent was claimed.”

The appeal was argued before WEST and PINHEY, J.J., on 30th March 1874.

Shántárám Náráyan for the appellant.

WEST, J. :—The finding of the District Judge on the fifth issue is fatal to the claim set up by the plaintiff and exempts us from the necessity of discussing the other issues sent down to the District Court. He could not, by a notice given in December 1870, entitle himself to enhanced rent for the then current year 1870-71. The decree of the District Court must, therefore, be amended, and the plaintiff be awarded Rs. 40 as the rent of two years at the previously established rates minus Rs. 9-2-6 found by the Lower Courts to have been paid as *názár chauthái* by the defendants on account of the plaintiff. The defendants admitted the claim to this extent and appear to have been always willing to pay what was due. The plaintiff must, therefore, pay their costs throughout.

[APPELLATE CIVIL JURISDICTION.]

April 8.

Special Appeal No. 406 of 1872.

BA'LA'JI GANESH.....*Defendant and Appellant.*

KHUSHA'LJI, SON AND HEIR OF

BAHROJI.....*Plaintiff and Respondent.*

Lis Pendens.—Mortgage—Possession—Priority—Possession under a subsequent mortgage created during the pendency of a suit by a prior mortgagee.

A sale or mortgage *pendente lite* is invalid as against the plaintiff and the vendor or mortgagor is under a disability to give any valid possession as against the plaintiff in the pending suit, to the party who be-