

## [APPELLATE CIVIL JURISDICTION.]

1874.  
March 4.*Regular Appeal No. 41 of 1873.*SHIDMAL GURU . . . . . *Plaintiff and Appellant.*W. ANDERSON, Revenue  
Survey and Settlement  
Officer, and the Máhál-  
kari of Nargund . . . . . *Defendants and Respondents.**Bombay Act III. of 1863, Sec. 3—Suit on account of Inam—Suit for possession of Inam—Jurisdiction.*

Bombay Act III. of 1863, Sec. 3, deprives the Civil Courts of jurisdiction in respect of all claims against Government on account of *Ináms*, in other words, claims referring to total or partial exemption from the payment of Government revenue, but it does not deprive the Civil Courts of jurisdiction in respect of claims to recover possession of *Inám* lands.

**T**HIS was a regular appeal from the decision of Baron Larpent, Judge of the District of Dhárwár, rejecting the plaintiff's claim.

The plaintiff filed a suit to recover possession of a piece of *Inám* land, which he alleged had been wrongfully taken possession of, and sold by the defendants.

The defendants pleaded want of jurisdiction in the Court, and denied the plaintiff's title. The District Judge rejected the plaintiff's claim.

The appeal was heard by SIR CHARLES SARGENT and NA'NA'-BHAI HARIDA'S, J.

*Bahiravnáth Mangesh* for the appellant.

*Dhirajlál Mathurádás*, Government Pleader, for the respondents.

SIR CHARLES SARGENT, in delivering the judgment of the Court, said—

Mr. Dhirajlál Mathurádás has objected on behalf of the respondents that, under Bombay Act III. of 1863, Section 3, the Civil Courts have no jurisdiction to entertain this suit, it being a suit relating to an *Inám*. Mr. Bahiravnáth, for the appellant, meets this objection by urging that the expression "claims against Government on account of Inams," as used in this enactment, refers to claims to hold lands totally or partially exempt from the payment of the Govern-

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ment revenue, and he maintains that the present suit is not such a suit, but is one simply for recovery of possession of the *Inám* lands themselves; and that, consequently, the Civil Courts have not lost their jurisdiction. In support of this view, Mr. Bahiravnáth cited Section 6, Regulation XXIX. of 1827, the language of which is precisely similar to that of the Act of 1863, and contends that, reading that Regulation by the light thrown upon it by the Inam Act XI. of 1852 and the Government Resolution No. 2449 of 1854, printed at page 58 of the Revenue Circular Book of 1860, it is clear that the Legislature by that section intended to exclude from the Civil Court's jurisdiction those claims only which related to exemptions from revenue demands. He further relied on the judgment of Sir M. Sausse in *Vishnu Trimbak v. Tátíá (a)* as supporting this view.

We are of opinion that the object of both these enactments was precisely the same, viz., to introduce the Regulation into a new province, and as to any doubt on the construction of the words "all claims on account of Inams," we think it is cleared up by the language of the Inam Act XI. of 1852 and by the interpretation which the Government put upon it under the authority of a special provision in that Act as shown by the Government Resolution before referred to. The present suit is not one for exemption from Government demands, but simply to obtain possession of the lands in question, and even if the plaintiff succeeds in obtaining a decree in his favour, the Government may, notwithstanding, come forward and claim their assessment.

As to the non-receipt of evidence to prove the loss of the *Tákid*, we think that the Judge would have exercised a sounder discretion in admitting it.

If the evidence, tendered by the plaintiff to prove that the original *Tákid* had been lost, had been satisfactory, the copy of the *Tákid* from the *Pátíl's Daftar* would have been admissible in evidence. We must, therefore, reverse the decree and remand the case for the Judge to receive the evidence in question and to pass a new judgment awarding costs.

(a) 1 Bom. H. C. Rep. A. C. J. 22.