

## APPELLATE CIVIL.

## FULL BENCH.

*Before Sir Charles Sargent, Kt., Chief Justice, Mr. Justice Melvill, and  
Mr. Justice Kembell.*

*In re BHAVAN BADHAR.\**

1882  
July 10.

*Stamp Act I of 1879, Schedule II, Article 13, Clause (b)—Lease by a cultivator—  
Definite term—Annual rent.*

Clause (b), article 13 of Schedule II of Act I of 1879, exempts all leases executed in the case of a cultivator without the payment or delivery of any fine or premium, whatever the reserved or annual rent may be, provided it be for a definite term not exceeding one year, and also whatever the term may be, provided the annual rent reserved does not exceed Rs. 100.

THIS was a reference under section 46 of the Indian Stamp Act, 1879, by G. F. Sheppard, Commissioner, N. D., for the decision of the High Court.

In making the reference the Commissioner said :—

“The question is as to the interpretation of the exemption clause (b) of article 13, Schedule II of Act I of 1879. \* \*

\*. \* The Advocate General and Legal Remembrancer to Government differ in opinion as to the meaning of the clause referred to.

“The instrument under consideration is a lease executed by a cultivator for one year, and reserves a rental of Rs. 131 over the Government assessment. It is on plain paper, and I am of opinion that it is exempt from stamp duty under article 13 of the second Schedule, as I understand the object of the Act to be to exempt, not *small*, but *short* leases.”

The instrument is dated 7th of January, 1882, and is passed to Krishn Vallabh Pran Vallabh by Bhavan Badhar. The material part of it is as follows :—

“I have rented the above-mentioned land from you for the purpose of cultivation for the season of 1881-82, and Rs. 131 has been fixed as the rent thereof. I am to pay the whole of the said amount in the month of March, 1882. The Government

1882

*In re*  
BHAVAN  
BADHAR.

assessment in respect of the said land is to be paid by me; you are to be paid Rs. 131 clear on account of the said rent. I am to clear the said land and make it over to you on the 19th of April, 1882, without your asking for it and without objection."

*Nanabhai Haridas*, Government Pleader, for the Commissioner, N. D.

There was no appearance by any of the executing parties.

*Per Curiam*.—We think that the language of clause (b), article 13, of Schedule II of Act I of 1879, exempts all leases executed in the case of a cultivator without the payment or delivery of any fine or premium, whatever the reserved or annual rent may be, provided it be for a definite term not exceeding one year, and also whatever the term may be, provided the annual rent reserved does not exceed Rs. 100.

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ORIGINAL CIVIL.

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*Before Mr. Justice Latham.*

May 4, 5 and 6.

RUTTONSEY MORARJI AND OTHERS, PLAINTIFFS, *v.* JAMNADAS  
PITAMBERDAS, DEFENDANT.\*

*Contract—Suit for damages for non-acceptance—Dispute as to quality of goods tendered—Right to examine goods—Survey—Reasonable time for examination of goods by purchaser—Contract Act (IX of 1872), Section 38.*

The defendant agreed to purchase from the plaintiffs one hundred full-pressed bales "fully good fair Kishli cotton" at Rs. 208-8 per candy, to be delivered from March 15th to April 1. On March 21 the plaintiffs sent the defendant a letter reminding him of the contract and requesting him to take delivery. On receipt of this letter the defendant put the matter into the hands of V. The plaintiff had then no cotton of the specific kind to deliver, nor did the letter refer to any particular bales. At 11-30 o'clock A.M. on March 30th the plaintiffs sent the defendants a letter enclosing a sampling order directed to an employe of Messrs. H. and S., on whose premises the bales referred to in the order were lying. V., on behalf of the defendant, got samples taken of the cotton and examined them, but without reference on that day to any standard. He then, however, conceived doubts as to the quality of the cotton and expressed his doubts to the plaintiff in the evening of that day. On March 31 the plaintiffs sent the defendant a delivery order enclosed in a letter from their solicitors calling on the defendant to attend with his surveyor at 1 P. M. on that day to survey the cotton, as otherwise an *ex-parte*

\* Suit No. 288 of 1881.