

APPELLATE CIVIL.

Before Sir Charles Sargent, Knight, Chief Justice, and Mr. Justice Birdwood.

GANESH RA'VJI, PLAINTIFF, v. GOVIND GOPA'L, DEFENDANT.*

1885.
April 23.

Limitation—Dekkhan Agriculturists' Relief Act XVII of 1879, Sec. 72—Agriculturist co-defendant sued as surety merely to principal debtor on an unregistered money bond.

Where an agriculturist, who was surety for the principal debtor, was made co-defendant in a suit on a money bond,

Held, that in his case the period of limitation was the ordinary period of three years, and not the period of six years allowed by section 72 of Act XVII of 1879.

THIS was a reference submitted for the opinion of the High Court, under section 617 of the Code of Civil Procedure (Act XIV of 1882), by Rāv Sāheb Govind Vāsudev Tullu, Joint Subordinate Judge of Poona.

The plaintiff sued the principal debtor, defendant No. 1, for recovery of Rs. 16, with interest amounting to Rs. 16, on a bond executed on 23rd August, 1879. Defendant No. 2 was the surety, and in that capacity alone had been made a co-defendant in the suit. The term prescribed for the payment of the debt in the bond was the month of Mārgashirsha of the Shake year 1800, the last day of which corresponds with the 23rd December, 1879.

The question referred for decision was—whether the six years' period of limitation, provided for by section 72 of the Dekkhan Agriculturists' Relief Act, applied in the case of an agriculturist co-defendant who was merely a surety to the principal debtor on a simple money bond?

The Joint Subordinate Judge of Poona was of opinion, that the usual three years' period, and not the six years' period, of limitation applied.

There was no appearance for the plaintiff or the defendant.

SARGENT, C. J.—As the second defendant is merely a surety, the new period of limitation, substituted by section 72 of the Dekkhan Agriculturists' Relief Act, XVII of 1879, for that prescribed by the Limitation Act XV of 1877, does not apply. The

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Subordinate Judge is, therefore, right in holding that the period of limitation is three years,—the bond, as we presume, not having been registered.

APPELLATE CIVIL.

Before Mr. Justice Nánábhái Haridás, Mr. Justice Birdwood, and Sir W. Wedderburn, Bart., Justice.

1885,
April 23.

NA'RA'YAN VENKU KALGUTKAR, PLAINTIFF, v. SAKHA'RA'M
NA'GU KOREGAUMKAR, DEFENDANT.*

Jurisdiction—A'bkári—Land revenue—Toddy spirit—Bombay Revenue Jurisdiction Act No. X of 1876, Secs. 3, 4, 5—Bombay A'bkári Act No. V of 1878, Secs. 24, 29, 54 and 67—Land Revenue Code, Bombay Act No. V of 1879, Sec. 87—Regulation XXI of 1827, Sec. 60.

The plaintiff sued to recover from the defendant, a farmer of ábkári duties on the manufacture of spirits, under section 60 of Bombay Regulation XXI of 1827, a sum of money alleged to have been illegally levied by him as tax or rent through the mámlatdár in respect of certain cocoanut trees tapped by the plaintiff in 1877-78 and 1878-79.

Held, that the Civil Courts have jurisdiction to entertain such a suit. If the claim be held to be one in respect of land revenue, it falls within the exception contained in clause (c) of section 5 of Act X of 1876. If it is not, section 4 of the Act has no application.

Per BIRDWOOD, J.—The expression “land revenue” as used in Act X of 1876 does not include either the duties leviable, under Regulation XXI of 1827, on the manufacture of spirits, or the taxes on the tapping of toddy trees, the levy of which in certain districts was legalized by section 24 of the Bombay A'bkári Act No. V of 1878. A farmer of duties on the manufacture of spirits is not authorized to levy a duty on any juice in trees, either under Regulation XXI of 1827, or Act X of 1876, or Bombay Act V of 1878.

Juice in toddy-producing trees is not spirit, which includes toddy in a fermented state only.

THIS was a reference, under section 13 of Act X of 1876, by Ráv Sáheb V. V. Wágle, Subordinate Judge of Vengúrla, who stated the case thus:—

“The plaintiff sues to recover Rs. 102-8-0 principal and Rs. 12-4-0 interest on that sum wrongfully recovered by the defendant. The plaintiff alleges that the defendant, being the farmer of ábkári revenue of the Vengúrla Táluka under the

* Civil Reference, No. 38 of 1884.