

1885.

NARAYAN
VITHE PARAB
v.
KRISHNAJI
SADASHIV.

mere dignity; but the only question before the Court on second appeal in that case was whether the suit raised a caste question which was excluded by the regulation from the jurisdiction of a Civil Court, and the Court held it did not, and remanded the case for trial. The present case is on all fours with *Ramá v. Shivráam*⁽¹⁾, which proceeds, we think, on a sound principle. We must, therefore, reverse the decree of the Assistant Judge, and reject the plaintiff's claim, with costs throughout on plaintiff.

Decree reversed.

(1) I. L. R., 6 Bom., 116.

APPELLATE CIVIL.

*Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice
Nánabhái Haridás.*

1886.
January 21.

NARAYAN RAGHUNATH AND OTHERS, APPLICANTS, v. BHAGVANT
ANANT, OPPONENT.*

Stamp—Memorandum of appeal from an order under Section 331 of the Civil Procedure Code (Act XIV of 1882)—Court Fees Act VII of 1870, Sch. I, Art. 1—Practice.

A memorandum of appeal from an order under section 331 of the Civil Procedure Code (Act XIV of 1882), should be stamped with an *ad-valorem* duty as provided by article 1, Sch. I, of the Court Fees Act VII of 1870.

THIS was a reference by H. J. Parsons, District Judge of Thána, under section 617 of the Civil Procedure Code (Act XIV of 1882).

The question referred for decision was:—What is the proper stamp that should be affixed to a memorandum of appeal against an order passed under section 331 of the Code of Civil Procedure (Act XIV of 1882)?

There was no appearance for the parties.

SARGENT, C. J.—The appeal should be stamped under article 1 of Schedule I of the Court Fees Act VII of 1870. Section 322B of the Civil Procedure Code (XIV of 1882) does not contemplate a distinct claim being made, as in the case in section 331, and this would appear to be the real ground on which the Madras decision in *Shrinivása Ayyangar v. Peria Tambi Náyákar*⁽¹⁾ proceeded.

*Civil Reference, No. 44 of 1885.

(1) I. L. R., 4 Mad., 421.