

The letter in question was in the following terms, *viz.* :—

“To Vedmurti Rajeshri Dhondbhatjiappa Devasthali by Atmaram and Sakharam Moreshwar Thakur Desai. Money is required for paying the demands of Government for the current year in respect of the village of Kasardev. One Yeshvant Kashi is, therefore, sent, with whom please send Rs. 175. The money will be repaid in coming August, with interest at 9 rupees *per cent. per annum.* Dated *Kartik Shud 13th, Shake 1806.*”

Signatures of Atmaram and Sakharam.  
Moreshwar Thakur Desai, by agent  
Trimbak Moreshwar Thakur.”

The Subordinate Judge was of opinion that this was a promissory [670] note, and that, therefore, being unstamped it was inadmissible in evidence.

There was no appearance for the parties.

#### JUDGMENT.

SARGENT C. J.—The document in the present case is not an unconditional undertaking to pay a certain sum of money, but only a request to borrow on certain conditions. It constituted a proposal under s. 4 of the Indian Contract Act.

It is not, in our opinion, liable to stamp duty.

13 B. 670.

#### APPELLATE CIVIL.

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

HIRA AMBAIDAS (*Applicant*) v. TEKCHAND AMBAIDAS  
(*Decree-holder*)\* [28th March, 1889.]

*Stamp—Certificate of sale, application for—Civil Procedure Code (Act XIV of 1882), s. 316—Practice.*

An application by an auction-purchaser for a certificate of sale need bear no stamp, since by s. 316 of the Civil Procedure Code (Act XIV of 1882), it is not even required to be in writing.

THIS was a reference by Rav Saheb R. K. Desai, Subordinate Judge of Surat, under s. 617 of the Civil Procedure Code (Act XIV of 1882).

The question referred by the Subordinate Judge for the High Court's decision was :—

“Should an application by an auction-purchaser for obtaining a certificate of sale be stamped with any Court-fee stamp? And if so, should it be stamped invariably with a Court-fee stamp of eight annas, or be stamped according to the amount of the purchase money, or the amount for which the *darkhast* was made according as the same be more or less than Rs. 50?”

The Subordinate Judge's opinion on the first part of the question was in the negative, and on the second that if it be held that it should be

\* Civil Reference, No. 21 of 1889.

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stamped, it should bear a Court-fee stamp of eight annas irrespective of the amount of the purchase-money or the amount of the *darkhast*.

There was no appearance for the parties.

## JUDGMENT.

[671] SARGENT, C. J. —As s. 316, Civil Procedure Code, does not require any formal application to be made for a certificate of sale, no written application is compulsory. In case any person chooses to apply in writing, the paper, as this is optional, need bear no stamp.

13 B. 671.

## APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Candy.

RAMJI PANDU (*Plaintiff*) v. MAHOMED WALLI (*Defendant*).<sup>\*</sup>  
[28th March, 1889.]

*Civil Procedure Code (Act XIV of 1882), s. 257-A—Decree, adjustment of, by strangers—Consideration—Bond on such adjustment.*

P having obtained a decree against B, the son of the latter gave the son of the former an instalment bond for the judgment-debt without the sanction of the Court. In a suit by P's son to recover the debt on the bond,

*Held*, that the suit would lie. Section 257-A of the Civil Procedure Code (Act XIV of 1882) applies only to agreements between the parties to the suit or decree.

[F., 23 B. 502; U.B.R. (1897—1901) Civil Procedure, 252; R., 28 B. 383 (392); 19 M. 230 (232).]

THIS was a reference by Rav Sahab V. V. Tilak, Subordinate Judge of Yaval, under s. 617 of the Code of Civil Procedure (Act XIV of 1882).

The facts of the case were these:—

One Pandu, having obtained a decree against Bi Jan for Rs. 51-0-7, Bi Jan's son Mahomed subsequently, without the sanction of the Court, executed in favour of Pandu's son Ramji an instalment bond for Rs. 100 in respect of the judgment-debt. In a suit by Ramji to recover the instalments due on the bond, the Subordinate Judge referred the following question for the High Court's decision, *viz.*:—

Do the provisions of s. 257-A of the Code of Civil Procedure apply only as between the parties to the decree, and is the bond described above valid?

The Subordinate Judge was of opinion that the bond was void.

*Vasudev Gopal Bhandarkar*, for the plaintiff:—Section 257-A of the Civil Procedure Code does not apply to agreements between strangers, but to those between the parties to the suit and the [672] decree—*Yella Chetti v. Munisami Reddi* (1). Here the agreement was entered into by strangers, and is, therefore, not void.

*Vishnu Krishna Bhatvadekar*, for the defendant, contended that the Full Bench ruling in *Haji Abdul Rahiman v. Khoja Khaki Aruth*(2) did not limit the application of s. 257-A to parties to the suit only, but held all bonds or agreements in adjustment of decree as void.

\* Civil Reference, No. 19 of 1888.

(1) 6 M. 101.

(2) 11 B. 6.