and, indeed admitted, to be a copy-holder as well as a free-holder of the manor, and, indeed, of both divisions of it, he is entitled to sue on behalf of all. This also appears to me to be established both by authority and by the constant practice of this Court in like cases, and also in cases where a right of fishing comes in question, as in the case of the *Mayor of York* v. *Pilkington*(1)."

Lastly, it is said that the Assistant Judge made an alteration in the form of the decree. It appears to the Court that that alteration is rather in favour of the proprietor, the appellant. What has been given by the appellate Judge is in accordance with the clauses of the agreement made in 1806, as evidenced by Exhibits 56, 57, 58, 60 and 61. The appeal must be dismissed, with costs.

Appeal dismissed.

(1) 1 Atk., 282.

APPELLATE CIVIL.

Before Mr. Justice Jardine and Mr. Justice Ránade.

RANGUBA'I (ORIGINAL OPPONENT), APPELLANT, *v.* ABA'JI (ORIGINAL APPLICANT), RESPONDENT.*

1894. *June* 16.

Regulation VIII of 1827—*Succession Certificate Act* (*VII of* 1889), *Secs.* 19 *and* 28—*Certificate of heirship*—*Order refusing certificate of heirship appealable*—*Appeal.*

An appeal lies from an order refusing to grant a certificate of heirship under Regulation VIII of 1827, by virtue of section 19 of the Succession Certificate Act (VII of 1889).

APPEAL from an order of H. L. Harvey, Assistant Judge of Sátára, in Miscellaneous Application No. 4 of 1893.

One Abáji Váman Bendre applied under Regulation VIII of 1827 for a certificate of heirship to the estate of Váman Abáji Bendre, deceased, alleging that he was the adopted son of the deceased.

This application was opposed by Rangubái, the widow of the deceased, on the grounds (1) that the applicant's adoption was

* Appeal, No. 10 of 1894.

1894.

RANGUBA'I v. ABA'JI.

not valid, he being the only son of his natural father; (2) that the deceased had made a will in her favour, bequeathing the whole of his property to her. She, therefore, prayed that a certificate of heirship should be granted to her and not to the applicant.

The Assistant Judge held that the applicant Abáji was not the only son of his natural father; that his adoption was valid, and that the will set up by the opponent Rangubái was not proved. He, therefore, granted a certificate of heirship to the applicant.

Against this order the opponent appealed to the High Court.

B. A. Bhagvat for appellant.

Ghanashám Nilkanth for respondent.

JARDINE, J.:—A preliminary objection was raised by Mr. Ghanashám, but not pressed, that no appeal lies from the refusal of the District Judge to grant a certificate, seeing that his adjudication, as is expressly stated in section 8 of Regulation VIII of 1827, does not finally determine the rights of the person whose application is refused, but leaves him competent to institute a suit for the purpose of establishing his claim. We are of opinion, following *Javermal* v. *The Názir of the District Court of Poona*[1] and *Pitámbar* v. *Ishwar*[2], that the appeal does lie by virtue of section 19 of the Succession Certificate Act VII of 1889, which is applied to Regulation VIII of 1827 by section 28 of that Act.

On the question of fact, whether the son given in adoption was an only son, we see no reason to differ from the Assistant Judge, whose order we, therefore, confirm with costs.

Order confirmed.

(1) I. L. R., 18 Bom., 748. (2) I. L. R., 17 Bom., 203.