

1895.

PARSHOTAM  
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therefore, reverse the decrees, and send back the case for the Court to pass a redemption decree after ascertaining what (if any) amount may be found due on the defendants' mortgage or mortgages to which the plaintiffs may be subject. The parties to pay their own costs in this Court and in the lower Court of appeal. Defendants Nos. 2 and 3 to have their costs in the Court of the Subordinate Judge.

*Decree reversed and case sent back.*

## APPELLATE CIVIL.

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

1895.  
January 17.

SADA'SHIV GANPATRA'O, a MINOR (ORIGINAL PLAINTIFF), DECREE-HOLDER, v. VITTHALDA'S NAN'CHAND (ORIGINAL DEFENDANT), JUDGMENT-DEBTOR.\*

*Civil Procedure Code (Act XIV of 1882), Sec. 39—Act VI of 1892, Sec. 4—Application for execution of decree—Proceedings in the suit—Vakalatnāma.*

Applications for execution of the decree are proceedings in the suit. A vakalatnāma remains in force until all proceedings in the suit are ended.

THIS was a reference by Ráo Sáheb Krishnáji Sadáshiv Risvadkar, Subordinate Judge of Párner in the Ahmednagar District, under section 617 of the Civil Procedure Code (Act XIV of 1882).

One Sadáshiv Ganpatráo got a decree against Vitthaldás Nan'chánd in the Court of the Subordinate Judge of Párner. Vitthaldás appealed against the decree to the District Court. The decree being confirmed in appeal, Sadáshiv's vakil, Váman Trimbak, who had been engaged in the Court of the Subordinate Judge to conduct the suit, presented an application for the execution of the decree, and got it fully executed according to the judgment in appeal. In the meanwhile, Vitthaldás preferred a second appeal to the High Court, which confirmed the decree of the District Court. After the disposal of the second appeal, Váman Trimbak presented an application for the recovery of the plaintiff's costs in second appeal. A question having arisen whether the vakalat-

\* Civil Reference, No. 19 of 1894.

náma filed by Váman Trimbak in the suit gave him authority to present the application for execution for recovery of the costs, the Subordinate Judge was of opinion that the vakil had authority under section 39 of the Civil Procedure Code (Act XIV of 1882); still as the section was not explicit on the point, he submitted the following questions:—

“(1) Whether the execution of the *darkhást*s is a proceeding in the original suits within the meaning of section 39 of the Civil Procedure Code (Act XIV of 1882)?

“(2) Whether the pleader in the original suits has authority to present those *darkhást*s and to seek the execution of the decree to which they relate without filing a fresh vakalatnáma?”

FULTON, J. :—We are of opinion that both questions must be answered in the affirmative. Under section 39 of the Civil Procedure Code the vakalatnáma shall be considered in force until all proceedings in the suit are ended so far as regards the client. Applications for execution of the decree are proceedings in the suit—see section 4 of Act VI of 1892, and the decision of the Privy Council in *Thakur Parshád v. Fakir-ul-láh*<sup>(1)</sup>.

*Order accordingly.*

(1) Appeal from the High Court, Allahabad, not yet published. See Rulings of the Privy Council, dated 24th November, 1894.

## APPELLATE CIVIL.

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

BA'BA, A MINOR (ORIGINAL DEFENDANT No. 2), APPELLANT,  
v. SHIVAPPA (ORIGINAL PLAINTIFF), RESPONDENT.\*

*Mahomedan law—Minor—Guardian—Mother of minor—Power to sell property of minor.*

According to Mahomedan law a mother, not being the legal guardian of her minor child, cannot do any act relating to the property of the minor so as to bind him.

SECOND appeal from the decision of C. G. W. Macpherson, District Judge of Belgaum.

\* Second Appeal, No. 497 of 1893.

1895.

SADA'SHIV  
GANPATRA'O  
v.  
VITHALDA'S  
NA'NCHAND.

1895.

January 14.