

Attorneys for plaintiff :—Messrs. *Edgelow, Gulabchand and Wadia.*

Attorneys for respondents Nos. 1 and 3 :—Messrs. *Crawford, Brown & Co.*

Attorneys for respondent No. 2 :—Messrs. *Roughton and Byrne.*

1900.
 TEMPLETON
 v.
 LAURIE.

APPELLATE CIVIL.

Before Sir L. H. Jenkins, Chief Justice, and Mr. Justice Candy.

HIS HIGHNESS THE GAIKWA'R SIRKA'R OF BARODA AND THE
 B. B. & C. I. RAILWAY COMPANY (ORIGINAL DEFENDANTS), APPLICANTS, v. GHANDI KATCHARABHAI, KASTURCHAND (ORIGINAL PLAINTIFF), OPPONENT.*

1899.
 September 6.

Practice—Decree—Appeal—Stay of execution of decree—Civil Procedure Code (Act XIV of 1882), secs. 545, 546.

In order to obtain a stay of execution of a decree directing the payment of money the applicant must satisfy the Court on affidavit that substantial loss may result to him unless execution is stayed.

APPLICATION for stay of execution. . The plaintiff obtained a decree in the Court of the Subordinate Judge of Ahmedabad for Rs. 17,507 against the defendants as damages sustained by him by reason of their wrongful acts in connection with the construction of a certain railway. The decree further directed the defendants to complete certain "accommodation works" for the passage of water under the said railway.

The defendants appealed. They subsequently obtained a rule *nisi* for stay of execution of the decree pending the appeal. The rule now came on for hearing.

Macpherson (with *Crawford, Brown and Co.*) for the applicants (defendants) in support of the rule.

Brown (with *Matubhai and Jamietram*) for the opponent (plaintiff) showed cause.

* Civil Application, No. 201 of 1899.

1900.

H. H. THE
GAIKWÁR
SIRKÁR
v.
GHANDI.

JENKINS, C.J.:—The decree directs the payment of money and the completion of certain accommodation works. Defendants-appellants seek stay of execution.

As to the works, we grant the stay. As regards the money, we must apply the law as it is.

No order for execution has been made, so section 546 does not apply. We must act under section 545, *i. e.* we must be satisfied that substantial loss may result. We are not so satisfied on the affidavits which have been filed. This will not prevent any application under section 546 should an order for execution be obtained.

Costs to be costs in the appeal, as the applicants have succeeded in part and failed in part.

Order accordingly.

APPELLATE CIVIL.

Before Sir L. H. Jenkins, Chief Justice, and Mr. Justice Batty.

1900.
August 30.

SHEIK GULAM JILANEE (PLAINTIFF) v. KASHINATH BAPUJI
DANI (DEFENDANT).*

*Dekkhan Agriculturists' Relief Act (XVII of 1879), sec. 3, cl. (x)—
Land revenue—Suit for land revenue not a suit for rent.*

A suit for land revenue does not fall under section 3 of the Dekkhan Agriculturists' Relief Act (XVII of 1879).

The liability for land revenue does not spring from a contractual engagement, and a claim in respect thereof is not one for rent or damages within the meaning of clause (x) of section 3 of the Act.

THIS was a reference by Khán Bahádur Navroji Dorabji, Special Judge under the Dekkhan Agriculturists' Relief Act (XVII of 1879).

The reference was in the following terms:—

“The plaintiff sued to recover from the defendant the sum of Rs. 48 for the assessment of certain *jághír* lands from 1894-95 to 1897-98.

* Civil Reference, No. 9 of 1900.