

We, therefore, think that the learned Judges in the lower Courts were right in the view they took.

This brings us to the second point, that the facts do not support the plea of undue influence.

Undue influence has been defined in some detail by Act VI of 1899, where it is (among other things) provided "that a person is deemed to be in a position to dominate the will of another where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of mental distress." Both the Courts have come to the conclusion that the respondent before us was at the time when he made his contract a person whose mental capacity was temporarily affected by mental distress, and, in our opinion, there is sufficient in the facts to justify that conclusion.

For these reasons we think the decree of the lower Court should be confirmed with costs.

Decree confirmed.

ORIGINAL CIVIL.

*Before Sir Lawrence H. Jenkins, K.C.I.E., Chief Justice, and
Mr. Justice Batchelor.*

HAJI HASSUM OOMER AND ANOTHER (PLAINTIFFS), APPELLANTS, v.
NUR MAHOMED AND OTHERS (DEFENDANTS), RESPONDENTS.*

*Limitation—Appeal—Copy of Judgment—Act XV of 1877, section 12,
Art. 151—Practice.*

The time that elapses between the date of an application for a copy of the judgment complained of and the date of issue of such copy to the applicant is to be excluded in computing the period of limitation prescribed for an appeal.

ON the 13th August, 1903, Judgment in this suit was delivered by Russell, J., in the lower Court. On the 22nd August the plaintiffs applied for a copy of the Judgment, which was issued to them on the 28th August. The decree in this suit was drawn up on the 31st August, and on Monday, 7th September, 1903, the plaintiffs filed the present appeal.

* Appeal No. 1297 of 1903; Suit No. 117 of 1902.

1904.

RANGNATH
SAKHARAM
v.
GOVIND
NARASIMV.

1904.

August 11.

1904.

HAJI HASSUM
v.
NUB
MAHOMED.

Strangman appeared for the appellants.

Lowndes, for respondents :—The plaintiffs having omitted to file this appeal within 20 days from date of Judgment, they cannot now be heard. We rely upon the Judgment of Candy and Tyabji, JJ., in *Jadhaji Raghoji v. Rajoo Babaji*,⁽¹⁾ on which case the present practice of this Court is based.

JENKINS, C. J. :—Section 12 of the Limitation Act XV of 1877 provides that “where a decree is appealed against or sought to be reviewed, the time requisite for obtaining a copy of the Judgment on which it is founded shall also be excluded”; and it is not within the power of the Court to nullify the effect of that section.

I am therefore of an opinion that on the facts of this case the appeal is within time.

Attorneys for appellants : *Messrs. Payne & Co.*

Attorneys for respondents : *Messrs. Malvi, Hiratal & Mody.*

TESTAMENTARY JURISDICTION.

Before Sir Lawrence H. Jenkins, K.C.I.E., and Mr. Justice Batchelor.

1904.

September 20.

OCHAVARAM NANABHAI HARIDAS (DEFENDANT), APPELLANT, v.
DOLATRAM JAMIETRAM NANABHAI (PLAINTIFF), RESPONDENT.*

*Grant of Letters of Administration—Scope of enquiry
prior to grant—Practice.*

On the hearing of a petition for issue of Letters of Administration to the estate of a deceased person it is not the province of the Court to go into questions of title to the property to which the Letters of Administration refer.

THE respondent filed a petition under the Testamentary Jurisdiction of the High Court, praying for a grant of Letters of Administration to the estate of his father Jamietram Nanabhai Haridas, who died intestate on 8th September, 1903.

* Appeal No. 1339; Suit 1 of 1904.

(1) (1899) 1 Bom. L. R. 112.