

## APPELLATE CIVIL.

Before Sir Narayan Chandavarkar, Kt., Acting Chief Justice,  
and Mr. Justice Batchelor.

1912.  
June 27.

HARIDAS NANABHAI GUJRATI (ORIGINAL DECREE-HOLDER), APPELLANT, v.  
VITHALDAS KISANDAS GUJRATI (JUDGMENT-DEBTOR), RESPONDENT.\*

*Limitation Act (IX of 1908), schedule II, article 179—Decree—Execution proceedings—Application for time to obtain copies of decree and judgment—Step-in-aid of execution.*

An application for time to enable the applicant to obtain copies of decree and judgment, made after presenting a *darkhast* to execute a decree, is a step-in-aid of execution.

*Kunhi v. Seshagiri*<sup>(1)</sup>, followed.

*Kartick Nath Pandey v. Juggernath Ram Marwari*, dissented from.

PROCEEDINGS in execution.

The decree under execution was obtained by one Haridas. He applied to execute the decree on 17th November 1906. In the course of execution proceedings, he applied on the 16th July 1907, for time in order that he might obtain copies of decree and judgment. Time was given; but the copies were never produced. On the 17th August 1907, the Court dismissed the *darkhast*. Haridas gave a second *darkhast* to execute the decree on the 10th February 1910.

Both lower Courts rejected the second *darkhast* on the ground that it was time-barred, as more than three years had elapsed between the dates of the two *darkhasts*.

The decree-holder appealed to the High Court.

*K. H. Kelkar*, for the appellant.

The respondent did not appear.

CHANDAVARKAR, ACTING C. J. :—We are of opinion that the application for time, which was made by the appellant after he had given the *darkhast* of November 1906, to enable him to procure copies of the decree and judgment, was a step-in-aid of execution. We agree with the judgment of the Madras High Court in *Kunhi v. Seshagiri*<sup>(1)</sup>, and dissent from the judgment of the Calcutta High Court in *Kartick Nath Pandey v. Juggernath Ram Marwari*<sup>(2)</sup>.

\*Second Appeal No. 504 of 1911.

<sup>(1)</sup> (1882) 5 Mad. 141.

<sup>(2)</sup> (1899) 27 Cal. 285.

The decree is, therefore, reversed and the *darkhast* sent back to be disposed of according to law on the merits.

Costs hitherto incurred will be costs in the *darkhast*.

*Decree reversed.*

R. R.

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PRIVY COUNCIL.\*

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RAGHOJIRAO SAHEB (DEFENDANT) v. LAKSHMANRAO  
SAHEB (PLAINTIFF).

[On appeal from the High Court of Judicature at Bombay.]

*Sanad, construction of—Grant creating title of Rájah of Deur in 1862—Meaning of “Lands attached to Deur”—Whether confined to lands in Sátára where Deur is situated, or extended to other lands in Bombay Presidency—Use of contemporanea expositio in interpretation of documents—Jáglir, nature of tenure—Saranjám—Inám—Vatan—Hakk—Nature of evidence in interpreting documents—Alteration of records.*

The plaintiff and the defendant were brothers, descendants of the Bhonsle family (Rájahs of Nágpur) whose possessions lapsed to the British Government in 1853. The object of the suit was to have it declared that the whole of the property in dispute (all situated in the Bombay Presidency) belonged to the two brothers in equal shares. The elder brother, the defendant (appellant), was Rájah of Deur, and his defence was that he had succeeded to the property in suit under the law of primogeniture, as an appanage to the title of Rájah conferred on him by a sanad issued by the Governor General, Lord Canning, in 1862. The question depended mainly on the construction of that sanad, in which the expression “lands attached to Deur” had been interpreted by the Courts in India as giving to the defendant only lands in the district of Sátára in which Deur is situated, the rest of the lands being declared to be partible between the two brothers.

*Held* by the Judicial Committee (reversing those decisions) that on the true construction of the sanad, a construction indicated by the history of the family and the other documentary evidence in the case, considered on the principle of *contemporanea expositio*, as a guide to its interpretation, the defendant was entitled to the whole of the property in the Bombay Presidency, and not only to that in Sátára, as an appanage to the title.

This was to be inferred from the official documents for 50 years, the language used in all of them being applicable to the possessions of the Rájahs in the Bombay

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HARIDÁS  
NANABHAI  
v.  
VITHALDAS  
KISANDAS.

\* P. C.  
1912.

June 12,  
13, 14, 18.

July 18.

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\* Present:—LORD SHAW, SIR JOHN EDGE, and Mr. AMEER ALI.