that the document (Exhibit P. F.) is to all intents and purposes a complaint and that the Magistrate had jurisdiction to act upon it. The slight irregularity in form has not in any way prejudiced the petitioner.

It follows that this petition must be dismissed. The records will be returned to the Sessions Judge to enable him to dispose of the appeal on the merits.

A. R.

Petition dismissed.

APPELLATE CIVIL.

Before Mr. Justice Harrison and Mr. Justice Zafar Ali.

1923

May 12.

HARJI MAL AND OTHERS (DEFENDANTS) APPELLANTS

versus

DEVI DITTA MAL AND OTHERS (PLAINTIFFS) RESPONDENTS.

Civil Appeal No. 2309 of 1923.

Civil Procedure Code, Act V of 1908, Order XVIII, rule 2—Judgment passed without hearing arguments of counsel who had filed written arguments.

Mr. M. S., the Sub-Judge, who heard the present case fixed the 10th November for arguments. On that date counsel for the parties stated that they were not ready to argue and asked for an adjournment which he did not allow but directed them to put in written arguments if they wished to do so. These were put in Court—the Sub-Judge left the district on transfer without writing a judgment. On the 22nd January the parties appeared before the Sub-Judge's successor who fixed a date for inspection and after a further adjournment had been given at the request of the defendant-appellants he eventually carried out the inspection in the presence of the parties and then gave judgment.

Held, that as the parties had ample opportunity to argue the case before both the Sub-Judges and had failed to do so, the judgment of the trial Court was not a nullity.

Mahmud Khan v. *Ghazanfar Ali* (1), and *Sher Khan* v. *Bahadur Shah* (2), distinguished.

Civil Procedure Code, 1908, Order XVIII, rule 2, referred to.

(1) (1920) 57 Indian Cases 34. (2) 91 P. R. 1904.

1923

HARJI MAL
v.
DEVI DITTA MAL.

Held also, that where the judgment of the Appellate Court states specifically that certain points were argued before it and is silent as to other points taken in the grounds of appeal, it must be presumed that those points were abandoned.

Second appeal from the decree of O. F. Lumsden, Esquire, Additional Judge, Lahore, dated the 23rd May 1922, affirming that of C. F. Strickland, Esquire, Subordinate Judge, 1st Class, Lahore, dated the 23rd February 1920, granting the plaintiffs a decree.

G. C. NARANG, JAGAN NATH and TEK CHAND, for Appellants.

BADRI DAS, for Respondents.

The judgment of the Court was delivered by—

HARRISON J.—In this second appeal the first point raised by counsel is that the Senior Sub-Judge who disposed of the case and wrote the judgment did not actually hear oral arguments although written arguments were before him, and reliance has been placed on *Mahmud Khan* v. *Ghazanfar Ali* (1) and *Sher Khan v. Bahadur Shah* (2) as authorities to show that under these circumstances the judgment is a nullity and the case must be remanded to the trial Court.

The facts are that Mr. Muhammad Shan, the Sub-Judge, who heard the case fixed the 10th of November, for arguments. On that date counsel appeared and stated that they were not ready to argue and asked for an adjournment, which he did not allow but directed them to put in written arguments, if they wished to do so. They, therefore, failed to avail themselves of the opportunity given them to argue the case before the Judge who had tried it. Further adjournments were given for written arguments and these were finally submitted on the 10th December. The Sub-Judge then came to the conclusion that it was necessary to inspect the spot, though what advantage exactly was to be obtained from this inspection is not clear. He was transferred before he carried out his inspection leaving the judgment unwritten and on the 22nd of January the parties appeared before Mr. Strickland, his successor, who fixed the 5th February for inspection. Later the counsel for the defendants

(1) (1920) 57 Indian Cases 34. (2) 91 P. R. 1904.

1923

HARJI MAL v. DEVI DITTA MAL.

who are now the appellants, appeared before him and asked for an adjournment which he granted. He eventually carried out the inspection in the presence of the parties and then gave judgment. Now *Sher Khan* v. *Bahadur Shah* (1) is to be distinguished as being the case of a first appeal, and in *Mahmud Khan* v. *Ghazanfar Ali* (2) it is clear that the parties had no opportunity to argue the case before the successor. Here they had ample opportunity before both Sub-Judges. In Order XVIII, rule 2, an option is given to the parties to argue their case when the evidence is concluded and it is for them to decide whether they will avail themselves of this privilege. Here they were given a further opportunity at a later date, the 10th November, and failed to make use of it. It is contended that even so they were entitled to an opportunity before the successor of Muhammad Shah, who was not in the same advantageous position as he was, inasmuch as he had not heard the evidence. Even so they certainly had more than one opportunity when they appeared before Mr. Strickland. It was for them to argue the case if they wished to do so. They did not do so and the only construction which can be put upon the events is that they deliberately failed to avail themselves of such opportunity and left the case in his hands knowing that the written arguments were before him. Under these circumstances we find that it was quite unnecessary for Mr. Strickland to attempt to insist on their availing themselves of the privilege and indeed it would have been futile for him to do so.

In the grounds of appeal various points are raised which are not dealt with in the judgment of the learned District Judge. There were four issues in the trial Court regarding two of which the judgment of the District Judge is silent. After disposing of two preliminary issues which had not been decided by the trial Court, the District Judge says in his judgment "the first point for determination is * * " and having dealt with this point he proceeds. "Lastly the objection is taken * * * * * *". Now the presumption is that a District Judge deals with the arguments put before him and if the form of the judgment shows clearly, as it does in this case, that the only points presented were those two with which he has dealt, the only inference

(1) 91 P. R. 1904. (2) (1920) 57 Indian Cases 34.

which we can draw, more especially in the absence of an affidavit to the contrary by the counsel who appeared before him is that the remaining points were not urged and were definitely abandoned.

[*The remainder of the judgment is not required for the purpose of this report*—Ed.]

C. H. O.

Appeal dismissed.

LETTERS PATENT APPEAL.

Before Sir Shadi Lal, Chief Justice and Mr. Justice Martineau.

Bhagat GOBIND DAS, ETC.—(DEFENDANTS) Appellants
versus
RUP KISHORE AND OTHERS—(PLAINTIFFS) Respondents.

1923
May 21.

Letters Patent Appeal No. 193 of 1922.

Indian Limitation Act, IX of 1908, *Article* 177—*Application to bring legal representative of a deceased defendant or of a deceased respondent on the record—whether the period of six months has been reduced to* 90 *days by the Amending Act, XXVI of* 1920, *section* 2—*Authenticated text of an Act, where to be found—Indian Evidence Act, I of* 1872, *section* 78—*Interpretation of Statutes.*

Held, that the text of an Act of the Governor-General in Council as published in the official Gazette must be taken to be the authorised text of the Act, *vide* section 78 of the Indian Evidence Act, 1872.

Held also, that when the words of an Act admit of but one meaning, a Court is not at liberty to speculate on the intention of the Legislature, and to construe them according to its own notions of what ought to have been enacted.

Maxwell's Interpretation of Statutes, VI Edition, page 10 referred to.

Held consequently, that the words "six months" which occur opposite Article 177 in the authenticated text of the Limitation Act have not been altered by anything contained in the Amending Act of 1920, and that the period of limitation for making an