

## APPELLATE CIVIL.

*Before Sir Charles Sargent, Knight, Chief Justice, and Mr. Justice Kemball.*

PAGI PARTAP HAMIR (ORIGINAL PLAINTIFF), APPELLANT, v. VARAJLÁL  
MULCHAND (ORIGINAL DEFENDANT), RESPONDENT.\*

1884  
January 10.

*Small Cause Court jurisdiction—Suit by owner for personal property.*

The defendant, who was a farmer of revenue, attached a buffalo for arrears due from a third party. In a suit brought by the plaintiff for a declaration that the defendant was not entitled to attach the buffalo,

*Held* that the suit should be filed in the Court of Small Causes, inasmuch as it was a suit by the owner to recover personal property, and fell within the ruling in *Chhaganlal Nigardas v. Jeshwan Rao Dalsukhrám*(1).

This case was referred for the decision of the High Court by C. E. G. Crawford, Acting District Judge of Ahmedabad, under section 617 of the Civil Procedure Code.

The defendant Varajlal was a revenue farmer of a certain talukdári village, and attached a buffalo for arrears of rent due from one Hamir Vasan. The plaintiff thereupon filed a suit in the subordinate Court of Ahmedabad for a declaration that the defendant was not entitled to attach the buffalo. The Judge returned the plaint on the ground that he had no jurisdiction. The plaintiff then presented it in the Small Cause Court at the same place. The Judge of that Court also returned it for want of jurisdiction. The plaintiff again presented it in the subordinate Court, and it was again returned on the same ground. The plaintiff then appealed to the District Court. The Judge (Mr. Crawford) was of opinion that it should be filed in the Small Cause Court, since it was a suit by the owner to recover personal property.

There was no appearance of parties in the High Court.

*Per Curiam.*—We concur with the Acting District Judge in thinking that the suit in question is one by an owner to recover personal property, and falls within the decision in *Chhaganlal Nigardas v. Jeshwan Rao Dalsukhrám*(1).

\*Civil Reference, No. 50 of 1883.

(1) I. L. R., 4 Bom., 503.