

1885.

NARAYAN
VITHE PARAB
v.
KRISHNAJI
SADASHIV.

mere dignity ; but the only question before the Court on second appeal in that case was whether the suit raised a caste question which was excluded by the regulation from the jurisdiction of a Civil Court, and the Court held it did not, and remanded the case for trial. The present case is on all fours with *Rámá v. Shávrám*⁽¹⁾, which proceeds, we think, on a sound principle. We must, therefore, reverse the decree of the Assistant Judge, and reject the plaintiff's claim, with costs throughout on plaintiff.

Decree reversed.

(1) I. L. R., 6 Bom., 116.

APPELLATE CIVIL.

*Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice
Nánabháí Haridás.*

1886.
January 21.

NARAYAN RAGHUNATH AND OTHERS, APPLICANTS, v. BHAGVANT
ANANT, OPPONENT.*

Stamp—Memorandum of appeal from an order under Section 331 of the Civil Procedure Code (Act XIV of 1882)—Court Fees Act VII of 1870, Sch. I, Art. 1—Practice.

A memorandum of appeal from an order under section 331 of the Civil Procedure Code (Act XIV of 1882), should be stamped with an *ad-valorem* duty as provided by article 1, Sch. I, of the Court Fees Act VII of 1870.

THIS was a reference by H. J. Parsons, District Judge of Thána, under section 617 of the Civil Procedure Code (Act XIV of 1882).

The question referred for decision was:—What is the proper stamp that should be affixed to a memorandum of appeal against an order passed under section 331 of the Code of Civil Procedure (Act XIV of 1882) ?

There was no appearance for the parties.

SARGENT, C. J.—The appeal should be stamped under article 1 of Schedule I of the Court Fees Act VII of 1870. Section 322B of the Civil Procedure Code (XIV of 1882) does not contemplate a distinct claim being made, as in the case in section 331, and this would appear to be the real ground on which the Madras decision in *Shrinivása Ayyangar v. Peria Tambi Náýákar*⁽¹⁾ proceeded.

*Civil Reference, No. 44 of 1885.

(1) I. L. R., 4 Mad., 421.