

1887.

SHRIDAR
NARAYAN
P.
KRISHNAJI
VITHOJI.

shoes with notice of plaintiff's claim, although he may possibly be entitled to redeem the entire nine fields comprised in the mortgage, must deliver possession to the plaintiff, (the mortgagee), until that is done. We must, therefore, reverse the decree, and order that plaintiff be put into possession. Appellant to have his costs here and in the Courts below.

APPELLATE CIVIL.

*Before Mr. Justice Nánábhái Haridás, Mr. Justice Birdwood, and
Mr. Justice Jardine.*

IN RE THE APPLICATION OF SHESHA'MMA.*

Stamp Act I of 1879, Sch. II, 1 (b)—Construction.

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S. being desirous of obtaining copies of certain records in a suit in the Court of the Subordinate Judge of Sirsi appeared before the názir and clerk of that Court, and made an affidavit to the effect that she was the heir and legal representative of one of the defendants in that suit, and needed the copies for the purpose of producing them in a suit filed against her in the Court at Kárwár. The affidavit together with a duly stamped application was presented by her pleader to the District Judge, who, being of opinion that the affidavit should be on a stamped paper, referred the case to the High Court.

Held, that the affidavit was exempt from stamp duty, under Schedule II, 1 (b) of the Stamp Act I of 1879.

THIS was a reference by E. H. Moscardi, Acting District Judge of Kánara, under section 49 of Act I of 1879. The case was stated as follows:—

“One Sheshámma kom Manjappá, inhabitant of Sirsi, being desirous of obtaining copies of certain records of Suit No. 419 of 1872 of the Sirsi First Class Subordinate Judge's Court, appeared before the názir and clerk of the Subordinate Judge's Court at Sirsi, and made affidavit to the effect that she was the daughter and legal representative of one of the defendants in that case, and that she urgently needed the said copies for presentation in a certain suit that had been filed against her. This affidavit together with a duly stamped application for the said copies was presented by her pleader to the District Judge of Kánara, who referred the following question for the High Court's decision:—

* Civil Reference, No. 39 of 1887.

“Does the affidavit in question require to be written on stamped paper?”

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IN RE THE
APPLICATION
OF
SHESHÁMMÁ.

The District Judge's opinion on the point was in the affirmative.

There was no appearance for the applicant.

PER CURIAM:—The question depends on the construction of the words of Act I of 1879, Sch. II, 1 (b) “for the immediate purpose of being used or filed in any Court, or before the officer of any Court.” The mere fact that it suited the convenience of the party making the affidavit to make it at Sirsi, instead of going for that purpose to the Court at Kárwár, where she purposed to file it, does not, we think, take the instance out of the words or the intention which may reasonably be imputed to the Legislature.

“When a statute requires that something shall be done ‘forthwith,’ or ‘immediately,’ or even ‘instantly,’ it would probably be understood as allowing a reasonable time for doing it”—Maxwell on Statutes, p. 423, (2nd ed.) See *Toms v. Wilson*⁽¹⁾, *Massey v. Sladen*⁽²⁾, and *Forsdike v. Stone*⁽³⁾. The last case shows that the test is whether, under the circumstances, there was such unreasonable delay as would be inconsistent with what is meant by “immediate”. From examination of the dates we think we may infer that the purpose existed at the time the affidavit was made of filing it in the Court at Kárwár, and that this purpose was carried out promptly. We are, therefore, of opinion that the affidavit is exempt.

(1) 32 L. J., Q. B., pp. 33, 332.

(2) L. R., 4 Ex., p. 13.

(3) L. R., 3 C. P., p. 607.