

APPELLATE CIVIL.

Before Sir C. Farran, Kt., Chief Justice, and Mr. Justice Parsons.

MORO MAHADEV AND OTHERS (ORIGINAL DEFENDANTS), APPELLANTS, v.
ANANT BHIMAJI (ORIGINAL PLAINTIFF), RESPONDENT.*

1896.
March 9.

Vatan—Kulkarni vatan—Joshi vritti—Purchaser of share in—Obstruction in performance of duties—Injunction—Specific Relief Act (I of 1877), Sec. 54.

The plaintiff, who had bought a share in a kulkarni vatan and *joshi vritti*, was obstructed by the defendants in the performance of his duties.

Held, that he was entitled to an injunction against the defendants.

SECOND appeal from the decision of A. Steward, District Judge of Ahmednagar, confirming the decree of Ráo Bahádur G. A. Mankar, First Class Subordinate Judge.

The plaintiff sued for a declaration against the defendants that he was entitled to enjoy the profits every fourth year of a fourth share in the kulkarni vatan and *joshi vritti* of the village of Nimbolak which he alleged he had purchased from one Rango Ganesh, and for a perpetual injunction against the defendants, alleging that he had been obstructed by them in officiating and receiving the fees at certain marriages, the consequence of which was that the *yajamáns* paid the fees to neither but were deposited with third parties.

The Subordinate Judge granted the injunction prayed for.

On appeal by the defendants the Judge confirmed the decree.

The defendants preferred a second appeal.

Gangaram B. Rele, for the appellants (defendants):—This is not a case in which an injunction should be granted. If we have caused obstruction to the plaintiff's enjoyment, he is, at most, entitled to recover damages from us. The plaintiff is not our co-sharer. He has purchased the right, title and interest of one of our co-sharers. Some of the *yajamáns* may not wish that the plaintiff, who is not a member of our family, should officiate at ceremonies at their houses, but they would be compelled to accept him if an injunction be granted—*Raja v. Krishnabhat*⁽¹⁾.

* Second Appeal, No. 130 of 1895.

(1) I. L. R., 3 Bom., 232.

• 1896.

MORO
v.
ANANT.

Bulaji A. Bhagavat for the respondent (plaintiff):—Under section 54 (e) of the Specific Relief Act we are entitled to sue for an injunction. A *viritti* can be sold—*Mancharam v. Pranshankar*⁽¹⁾. There is nothing in the present case to show that the *yajamāns* are unwilling to allow us to officiate.

PARSONS, J. :—This case is distinguishable from *Raja v. Krishnabhat*⁽¹⁾. There the Court would not force a joshi on unwilling *yajamāns*. The *yajamāns* here were employing and willing to employ the plaintiff, but the defendants obstructed him in the performance of his duties. We think that under section 54 of the Specific Relief Act he is entitled to an injunction under these circumstances. Decree confirmed with costs.

Decree confirmed.

(1) I. L. R., 6 Bom., 298.

APPELLATE CIVIL.

Before Sir C. Farran, Kt., Chief Justice, and Mr. Justice Fulton.

1896.
March 24.

GANGARAM (ORIGINAL DEFENDANT), APPLICANT, v. PUNAMCHAN
NATHURAM (ORIGINAL PLAINTIFF), OPPONENT.*

Construction—Acts relating to procedure—Retrospective operation of—Practice—Procedure—Dekkhan Agriculturists' Relief Act (XVII of 1879) Sec. 73†—Act VI of 1895.‡

In this suit the Subordinate Judge of Karmāla held that the defendant was an agriculturist, and that, therefore, the suit could not be maintained without a certificate under section 47 of the Dekkhan Agriculturists' Relief Act (Act XVII of 1879). Under section 73 of that Act the finding of the Subordinate Judge upon the point was final. The plaintiff appealed, the appeal including other points of objection to the decree as well as that with regard to the status of the defendant. Pending his appeal, Act VI of 1895 was passed, which repealed section 73. At the hearing of the appeal the Judge considered the question of the status of the defendant, and held that he was not an agriculturist, overruling the decision of the Subordinate Judge upon that point.

* Application No. 1 of 1896 under the Extraordinary Jurisdiction.

† Section 73 of the Dekkhan Agriculturists' Relief Act (Act XVII of 1879)—

73. The decision of any Court of first instance, that any person is or is not an agriculturist, shall for the purposes of this Act be final.

‡ Amending Act VI of 1895—

Sections 8, 9, 14, 15, 19 and 73 are hereby repealed.