

Before Sir W. Comer Petheram, Knight, Chief Justice and Mr. Justice Pigot.

KABULI (PLAINTIFF) v. BHULI (DEFENDANT)*

*Practice—Rules of Original Side, High Court—Appeal—Paper book,
Delivery of—Costs.*

1890
Jan. 17.

When an appeal is filed, but no paper books are delivered by the appellant, the respondent is entitled, without taking upon himself to deliver paper books, to have the appeal dismissed with costs.

Hurroosoondery Dossee v. Kallypoddoo Dutt (1) not followed.

IN this case the suit brought by the plaintiff was dismissed, on the Original Side of the High Court, with costs, on the 13th June 1889.

The plaintiff, on the 12th August 1889, issued notice to the defendant that he had filed an appeal against the decision of the lower Court. This notice was served on the defendant on the 8th January 1890. The appellant, however, filed no paper book.

Under para. 467 of the rules framed for the Original Side of the High Court (see Belchambers' Rules and Orders, p. 209), the appellant or his attorney is bound, "within six days from the presentation of the memorandum of appeal, to deliver to the Registrar, Original Jurisdiction, for the use of the Judges, two paper books containing a copy of the plaint, written statement, depositions of witnesses, and of the decree and judgment and memorandum of appeal. If the appellant fail to do so within the time limited, the respondent or his attorney may deliver such paper books."

The respondent being satisfied with the decree in his favour filed no paper books under this rule.

On the appeal being called on for hearing, no one appeared for the appellant.

Mr. *Gasper*, for the respondent, asked that the appeal might be dismissed with costs.

The Court (PETHERAM, C.J., and PIGOT, J.), after the case of *Hurroosoondery Dossee v. Kallypoddoo Dutt* (1) had been brought to their notice, dismissed the appeal with costs.

Attorney for respondent: Baboo *Gonesh Chunder Chunder*.

T. A. P.

Appeal dismissed.

* Appeal No. 30 of 1887, from the decision of Mr. Justice Norris, dated 13th of June 1889.