

## APPELLATE CIVIL.

*Before Sir Richard Garth, Kt., Chief Justice, Mr. Justice Jackson, and  
Mr. Justice Ainslie.*

ANONYMOUS.\*

1878  
June 16.

*Vakalatnama—Act VII of 1870, art. 10, sched. ii—Act XVIII of 1869,  
sched. ii.*

A vakalatnama authorizing a pleader to receive during the course of a suit which he has been empowered to conduct, money or documents receivable by his client in the ordinary course of such suit, or in consequence of the order or decree of the Court in such suit, does not require a stamp under Act XVIII of 1869.

REFERENCE made to the High Court by the Officiating Secretary to the Board of Revenue, North-Western Provinces, under s. 41 of Act XVIII of 1869.

The question referred was as follows:—

Whether a Court of Justice would, ordinarily, be acting regularly in directing a public officer to pay money or make over valuable documents to a pleader who has been empowered to conduct a case by a vakalatnama stamped under art. 10, sched. ii of the Court Fees Act, but who has not been authorized by a power of attorney bearing the stamp prescribed in sched. ii of Act XVIII of 1869 to receive on behalf of his client such money or valuable documents.

No one appeared to argue the point.

The opinion of the Court was delivered by

GARTH, C. J.—Upon the question addressed to this Court by the Board of Revenue of the North-Western Provinces on the 29th of March last, we are of opinion that if a pleader is authorized by the vakalatnama under which he acts to receive monies or documents for his client in the course of the cause, which he is empowered to conduct, or as a consequence of the decree or any order of the Court in such cause, a Court of Justice might

\* Reference from the Board of Revenue, North-Western Provinces, under 41 of Act XVIII of 1869.

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legally and with propriety direct a public officer to pay money or make over valuable documents to the pleader, provided that such money or documents have become receivable by the client in the ordinary course of the suit, or in consequence of the order or decree.

The receipt of money or documents under such circumstances is one of those ordinary duties which pleaders are continually called upon to perform for their clients, and a vakalatnama properly framed generally contains a power to perform such duties.

If, therefore, the legislature had intended, that in every such case a general or special power of attorney should be necessary to enable the pleader to receive the money or documents, it may be assumed that they would have said so in express terms.

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*Before Sir Richard Garth, Kt., Chief Justice, and Mr. Justice McDonell.*

MOHIMA CHUNDER DEY SIRCAR AND OTHERS (DEFENDANTS)

*v.* HURRO LALL SIRCAR AND OTHERS (PLAINTIFFS).\*

*Limitation—Title—Possession—Acts of Ownership—Evidence of Title—Grant of Potta.*

Where land, the right to which is disputed, has been uninhabited and uncultivated, and no acts of ownership by any person can be proved to have been exercised over it, it is often necessary, for the purpose of deciding the question of limitation, to rely upon slight evidence of possession, and sometimes possession of the adjoining land, coupled with evidence of title, such as grants or leases, and the Courts are justified in presuming, under such circumstances, that the party who has the title has also the possession.

But where the land has been occupied, it is generally proper, for purposes of limitation, to deal with the question of possession as distinct from the question of title, for while the title may be in one person, a twelve years' possession may have barred that title.

THIS was a suit for the possession of 1 biga 7 cottas of land, which the plaintiffs claimed as appertaining to their osut talook, situated in Talook Ramgobind Aitch, which again was said to be situated in Parganna Simlabad. The plaintiffs alleged that they had let the land in howla to certain of the defendants, but

\* Appeal under s. 15 of the Letters Patent, against the decree of Mr. Justice Ainslie, dated the 7th of December 1877, in Special Appeal No. 499 of 1877.