The safer and better course seems to be, that where the Appellant does not appear, and there are no means of knowledge the grounds of his appeal, the order should be to dismiss without affirming. In this case he could not be let in to renew his appeal without satisfying the Court as to the grounds of default, and complying with such conditions as should be prescribed. Where the Respondent appears not, *ex necessitate* the Court must hear and determine the case upon the best consideration of its merits which the matters before the Court enables it to give; but in neither case can the judgment be pronounced as of course for the party appearing, merely on the ground of the other party's absence.

In the present case the form has been adopted which has been used in a great majority of instances, where the Appellant did not appear at the hearing. It is not, however, known whether, in these instances, there were or not cases laid before their Lordships, or such access to the proceedings below, and such recourse had to these proceedings as might enable their Lordships to supply the defect occasioned by the Appellant's default; and in at least one instance, the order was made, as it ought to have been made here, simply dismissing the Appeal, and not affirming the decree below. Their Lordships consider that a simple dismissal is to be regarded as the order which must have been in the Court's contemplation, and that no more could have been intended in substance, although the objectionable form, importing affirmance, was followed.

We, therefore, think that, in the particular circumstances of this case, His Majesty should be advised to amend the order of the 16th April 1834, by making it conformable to what it must be taken to have intended, and to let in the Appellant to be heard notwithstanding the dismissal, that is to say, to restore the Appeal; and in case His Majesty shall be pleased so to order, that these conditions shall be imposed upon the Appellants, namely, payment of Respondent's costs occasioned by the default in April 1834, and by this application; and that he shall now lodge cases within five months; and to permit the Respondent to take copies of any part of the proceedings in his possession, at the charge of Respondent, and undertake to disturb nothing done from the date of the judgment, until notice is received of this order.

The following order was made in conformity with the above judgment by the King in Council, on the 22nd December 1836; "That His Majesty's Order in Council on the said Appeal of the 16th April 1834, be amended, by striking out so much of the said order as affirms the decree of the Sudder Dewanny Adawlut, at Fort William in Bengal, of the 27th of July 1812; and it is hereby further ordered, that so much of the said order of the 16th of April 1834 as dismissed the said Appeal with costs, and the same is hereby rescinded; and that the said Appeal be restored; and that the Appellants be allowed to prosecute the same to a hearing; provided nevertheless, and it is hereby further ordered, that such leave be subject to the several conditions mentioned in the said report, whereof the Judges of the Sudder Dewanny Adawlut, at Fort William in Bengal, for the time being, and all other persons whom it may concern, are to take notice and govern themselves accordingly."

The Appeal having been thus restored, came on now for hearing on the merits.

9th May, 1839.

The case begins here

MR. JUSTICE BOSANQUET:

THE Appellants in this case represent Sree Narain Rae, who, with his brother Lullit Narain Rae, was co-heir at law in the seventh degree of Indur Narain Rae, late Raja of the *Zemindary* of the Pergunnah Havila Purneah, who died in the year 1784, leaving the Ranee Indrawuttee, his widow, in possession of his estate and effects.

On the death of the Ranee, on the 15th November 1803, the *Zemindary*, and all the estate of which she died possessed, were claimed by Bhya Jha, the son of her

uncle, Roodrudhut Jha, who is represented by the Respondent, and who set up a title as *Khurta Pootra*, or heir by the adoption of the Ranee.

Bhya Jha burned the body of the Ranee on the evening of the day on which she died. He also performed the *Sraddh* or funeral ceremony, three days after the death, having in consequence of a petition preferred to the Zillah Judge obtained 5,000 rupees for that purpose.

Adverse claims having been preferred, the property was secured by authority of the Zillah Court, which, after having consulted the Sudder Dewanny Adawlut, put the heirs in possession upon giving security, leaving Bhya Jha to establish his right by adoption.

On the 11th of December, a *Soluhnamah*, or Deed of Compromise, was executed by the heirs-at-law and Bhya Jha, by which it was agreed that they should divided the whole of the property, moveable and immoveable, comprising the estate left by the late Ranee, as well the former *Zemindary*, as the *Zemindary* then recently acquired by private and public sale, in equal moieties. This instrument was executed in the presence of many witnesses.

On the 28th December, Sree Narain Rae and his brother, the co-heirs, as well as Bhya Jha, appeared before the Judge of the Zillah Court, when Sree Narain and his brother being asked why they executed the Deed when the right of no one had been inquired into, they replied, "We understood that the Ranee had constituted Bhya Jha her *Khurta Pootra*, in which case he is also an heir, and he also understood us to be rightful heirs; wherefore we and Bhya Jha agreed to a mutual compromise, and have executed this engagement, which specifies also the objects." Being asked if they made this declaration in consequence of the oath set forth in the Deed of Compromise, or of their free will, they answered, "Our claim was for the entire estate; but since we have voluntarily entered into this engagement, we are satisfied and agree, of our free will, to relinquish a moiety of it."

Bhya Jha being also examined, said the late Ranee constituted me her *Khurta Pootra*; Sree Narain and Lullit Narain are kinsmen and rightful heirs of the Ranee's husband. They delivered a petition to the Court, claiming the entire estate left by the Ranee, and also preferred a claim to the whole. Wherefore, to prevent litigation, which might cause the ruin of both parties, we agreed to a compromise, and exchanged engagements accordingly. Being asked what he now claimed, he answered, I have now no claim beyond what is stated in the *Soluhnamah*. All of them, on being questioned if they wished to have joint possession of the estate, answered, We are desirous of having joint possession, and will hereafter carry into effect the stipulations of our reciprocal *Soluhnamahs*.

On the 30th December the Zillah Court pronounced an opinion that the agreement was manifestly collusive, and could not be sanctioned as valid; and further stated that the petitions of the parties having been sent to the Sudder Dewanny Adawlut, the instructions of that Court were, that the nearest of kin, who according to the *Shaster* should appear to be the legal heirs, should, on giving security, be put into possession of the estate, and that Bhya Jha should prosecute his claim by a regular civil suit. It was therefore ordered that he should prefer his claim by a regular suit, according to usage, and Sree Narain and Lullit Narain were put into possession.

Bhya Jha appealed from the decision of the Zillah Court to the Provincial Court of Moorshedabad. In consequence of petitions to the Sudder Dewanny Adawlut the parties appeared there. The co-heirs asserted that Bhya Jha was not the adopted son of the Ranee, and that they had been induced to sign the *Soluhnamah* by threats of Bhya Jha, Bhya Ram Misser, and others, and prayed that Bhya Jha might be required to prove that he was the adopted son of the Ranee, and might be directed to prosecute, according to the existing Regulations, his claims to the property left by the Ranee at her decease.

On the 26th September 1804, the Sudder Dewanny Adawlut, after expressing strong doubts of the validity of the claim, declared that it was necessary for the ends of justice, that Bhya Jha's claim to the whole of the property of the late Ranee should be judicially investigated; and therefore ordered that Bhya Jha, whether he claimed the whole of the property of the Ranee in consequence of his having been adopted by her, or whether he laid claim to the half of it only, according to the agreement on the *Soluhnamah* with Sree Narain and others, should institute a suit for the purposes in the Court of Zillah Purneah, in conformity to the Regulations.

A suit was accordingly instituted by Bhya Jha.

On the 3rd September 1806, the Court ordered the parties to produce all papers and documents, on which they intended to rely, before the 4th November next following.

Bhya Jha contended that it was not necessary for him to prove that he had been appointed *Khurta Pootra*, inasmuch as the Defendant had admitted it by the *Soluhnamah*.

Witnesses named in a list were, nevertheless, directed by the Court to be examined. But on the 22nd June 1808, pursuant to a general order of the Government, all the proceedings were transferred to the Provincial Court of Moorshedabad.

On the 26th June 1809, Bhya Jha presented a petition, stating that he had two claims on the property, moveable and immoveable, left by the late Ranee.

That one claim was as *Khurta Pootra*. That the other claim was founded on the *Soluhnamah*, or Deed of Compromise. That the supplemental or annexed claim included two counts, first as *Khurta Pootra* for the whole estate, real and personal, amounting to sicca rupees 1,315,693; secondly, on the Deed of Compromise for a moiety of that sum; and that when the cause should come on for trial, he would bring forward or rely on either of these counts, as he might think proper.

On the 28th July 1809, after hearing one witness only, the Court of Moorshedabad proceeded to determine the case, and pronounced that it was unnecessary to enter into a further consideration of the claims of either party; observing, that whether Sree Narain and Lullit Narain were the rightful heirs, or Bhya Jah was or was not *Khurta Pootra*, they were equally bound by the stipulations of the engagement, mutually interchanged; and the *Soluhnamah* executed before the Judge defined the right of either party. It was therefore ordered that Sree Narain and Lullit Narain should give to Bhya Jha possession of one moiety of the property, and one-half of the profits received, and each party should pay his own costs.

From this decision Sree Narain and Lullit Narain appealed to the Sudder Dewanny Adawlut.

An objection was made there to the right of Bhya Jha to enforce his claim under the *Soluhnamah*, after having, by a petition to the Zillah Court, 5th of September 1805, claimed the entire property, and by a letter of the 10th of September 1806, declared that if Sree Narain and Lullit Narain would not abide by the stipulations contained in it, he, Bhya Jha, would henceforth consider the same null and void.

The Court ordered an investigation to be made upon two points: first, as to the facts of Bhya Jha's adoption by the Ranee; and secondly, the alleged fraud of Bhya Jha, Bhya Ram Misser, and others, in obtaining the *Solunamah*. In consequence of this Order, a great body of evidence was given on both sides, and the Sudder Dewanny Court, after very full consideration of the whole case, by their final decree of the 27th of July 1812, confirmed the decree passed by the Provincial Court of Moorshedabad of the 28th of July 1809, which ordered Bhya Jha to be put in possession of a moiety of the contested property, and also half of the produce arising therefrom since the time that Sree Narain and Lullit Narain had had possession; and moreover declared that Bhya Jha was entitled to a moiety of the entire property left by the Ranee, specified in the peti-

tion of the Plaintiff in the cause which the Provincial Court, in their Decree. had ordered to be placed in deposit. But as the objection of the Appellant to the *Soluhnamah*, on which the Decree of the Provincial Court was founded, were not thoroughly inquired into, on which account the Appeal to the Sudder Dewanny Adawlut was not without foundation, it was ordered that both parties should be answerable for the costs of suit in that Court.

The first question to be determined was whether Bhya Jha was precluded from insisting upon the *Soluhnamah*.

The Court, considering that Bhya Jha was not the first to swerve from the reciprocal agreement entered into between him and his opponents, but on the contrary, had uniformly expressed his willingness to carry the same into effect, even after his opponents had retracted their consent, and until the order of the 26th of September 1804 ; which directed a judical investigation into his claim to the property of the Ranee, that he preferred his claim upon the agreement before the cause had come to a hearing in the Provincial Court, and that he had acquiesced in the Decree of that Court, maintaining the agreement, and praying that it might be affirmed; and did not apply for any examination of witnesses to support his title to the whole estate, but on the contrary objected to such examinition when ordered by the Court, and desired a confirmation of the judgment for half the estate, in conformity with the Deed of Compromise; and moreover considering that forms of pleading were not very strictly observed in the native Courts;—determined, and, as their Lordships think, rightly determined upon the grounds above mentioned, the Bhya Jha was at liberty to insist upon the validity of the *Soluhnamah* in support of the Judgment of the Provincial Court of Moorshedabad.

The next question to be considered, was, whether that instrument ought to be supported by the Court, or whether it was not impeachable on legal or equitable grounds.

The first ground of objection was, that it had been obtained by the fraudulent representation of a transaction which was absolutely false, namely, that the Ranee by words addressed personally to Bhya Jha on the morning of her death, had constituted him her *Khurta Pootra* or adopted heir.

If this were clearly proved to be untrue, it must necessarily have been untrue within the knowledge of Bhya Jha himself; and any deed of compromise founded on an assertion of such matter by him, however deliberately entered into by the co-heirs-at-law, would unquestionably be invalid.

The Judges of the Sudder Dewanny Adawlut, after carefully reviewing all the evidence in the cause, did not feel themselves able satisfactorily to declare that the adoption had taken place, neither did they feel themselves justified in pronouncing that the representation of its having taken place was false.

Without satisfactorily establishing the former, Bhya Jha could not be entitled to recover the whole estate. But when after the assertion of his title on the one side and the denial of it on the other, a compromise was entered into, in the presence of many witnesses, by parties on the spot, and solemnly acknowledged by the parties in a court of law to have been voluntarily executed, the burthen of showing that it had been fraudulently obtained by false representation was cast upon those who sought to impeach the validity of their own deed.

The laborious and accurate examination which the testimony in this case has undergone at the bar has greatly assisted their Lordships in determining whether the Sudder Dewanny Adawlut arrived at a just conclusion.

They find a great body of positive evidence to the fact of adoption, given by persons who swear to having been present at the time when the Ranee, being of sound mind, addressed Bhya Jha, saying, "When I was but five or six months old my mother died, and a short time after, my father died ; and ever since your father maintained me, and having brought

me to this Rajah, gave me in marriage; I am therefore greatly indebted to your father, and thereby you have claims on me; I have made you my *Khurta Pootra*, property, estate, and effects, which I have bequeathed to you; after which words Bhya Jha rose and thankfully accepted them." These witnesses further swear that she told Bhya Jha to burn her body and perform the *Sraddh*; others swear that in their hearing, the Ranee personally declared on the same morning that she had actually made Bhya Jha her *Khurta Pootra*, and gave her reasons; and others depose that she had on that same morning consulted them as to the proper hour for making a *Khurta Pootra*. It is beyond all dispute that Bhya Jha almost immediately after the death of the Ranee burnt her body, an office which it belonged to *Khurta Pootra* to perform; that his right to succeed as *Khurta Pootra* was claimed for him by a petition presented the next day, and that he also publicly performed the ceremony of the *Sraddh* three days after the death, as the adopted heir, on which occasion he was placed on the *Musnud** and the turban put upon his head. On the other hand it is sworn by many witnesses who profess to have been in attendance on the Ranee on that day, that she did not make any *Khurta Pootra*; that she was incapable from extreme illness and insensibility from doing any such act; that several of the persons who swear to having witnessed the act were not present at the time; that Bhya Jha himself was absent from the house during that morning, and did not arrive till after the death of the Ranee; that he was at another place at the time when the adoption is sworn to have taken place; and that he had, for a long time before, ceased to come into her presence, in consequence of her having been displeased with him on account of his having practised sorcery against her. Declarations of witnesses on both sides, contrary to the facts deposed to by them in evidence, are sworn to by others; and tampering with the witnesses by the opponents on both sides is deposed to.

It cannot be denied, therefore, that circumstances are stated upon the face of the evidence which are calculated to excite suspicion, both with respect to the fact of the adoption, and the credit of several witnesses adduced to prove it.

But the case of the Appellants is founded upon a charge of positive fraud and imposition, and gross fraud is not to be imputed upon suspicion only. Unless the charge be proved, parties are not to be released from agreements entered into by their solemn acts. There may be ground to pause in giving full credit to the alleged adoption; but their Lordships, upon a review of the testimony given on one side and the other, regard being had both to the matter and the credibility of such testimony, do not see such a preponderating weight of evidence against the fact of adoption as to justify a determination that the assertion of its existence was an utter falsehood, and they are therefore of opinion that the ground of impeaching the *Saluhnamah* by the coheirs, on account of its being founded on a *suggestio falsi* by his opponent, Bhya Jha, has not been maintained.

The next objection to the *Soluhnamah* is an alleged *suppressio veri*.

But the evidence does not afford any foundation for that objection. If the imputed falsehood of the adoption be laid out of the case for want of sufficient proof to support that imputation, the parties, in respect of the knowledge of circumstances, must be considered to stand upon equal terms. They belonged to the same caste, they lived in the neighbourhood of the Ranee at the time of her death; they had the opportunity of making inquiry into all material facts, and their attention was alive to the ground of claim to the property; these grounds having been made the subject of assertion on the one side and denial on the other, before the execution of the deed. It does not appear that Bhya Jha was in any respect better informed with respect to the rights of the heirs, the bearing of the law upon their rights or his own, or the nature or amount

*The cushion or chair of state in which a *Rajah* or *Zemindar* sits in public.

of the property, real and personal, than the heirs themselves, still less that anything was concealed which they might not be supposed to know as well as he.

The ground, however, which is most strongly relied upon, and to which a great part of the evidence is addressed, is that the heirs were induced to execute the *Soluhnamah* by intimidation and undue persuasion.

The person alleged to have been most active in this respect is Bhya Ram Misser, the *Mokhtar* or manager of the late Ranee, who is said to have urged the heirs to enter into the compromise, by repeated importunities, by the representation of the injury which they must necessarily sustain by a long protracted litigation, which would prevent both them and their children from deriving any benefit from the *Zemindary*, and by actual threats that he would cause the ruin of it, and had the means of carrying such threats into effect.

Other persons, and among them the Collector of the East India Company, are stated to have used persuasion to the same effect as Bhya Ram Misser. But it is to be observed, that the charge of having employed intimidation is confined to the latter; and that as he was dead at the time when witnesses in support of the charge were examined, the opportunity of confronting them by his evidence was known by the witnesses to be lost. At what precise time Bhya Ram Misser died, does not appear. In the examination of Doorgapersaud, however, on the 16th of April 1811, it does appear that he was then dead; and it was not till after that day, that the examinations were taken of the witnesses who charge Bhya Ram Misser with having employed threats.

The advice to enter into a compromise rather than engage in litigation, subject to be protracted by Appeal, not only to the Sudder Dewanny Adawlut, but to England, could not, in the absence of fraudulent intention, be deemed a ground for impeaching the validity of the *Soluhnamah*. Indeed, Doorgapersaud himself, the Vakeel of Sree Narain Rae, states in his evidence, that he concurred in persuading his client, upon the same grounds, to accede to the compromise; and his evidence with respect to fraud, in causing the *Soluhnamah* to be executed, is confined to the persuasion and advice in which he himself concurred.

The allegation of compulsion, by the threats of Bhya Ram Misser, brought forward in evidence after his death, cannot countervail the solemn and unequivocal declaration made by the heirs to the Judge of the Court, that they had voluntarily entered into the engagement, that they were satisfied, and had agreed of their free will to relinquish a moiety of the property, more especially when it is recollected, that they were not taken by surprise, having, according to their own evidence, executed the instrument after the respective claims of the parties had been the subject of dispute.

The last ground of objection is, that the heirs have given up a moiety of their undoubted right, under a palpable mistake, of which it is contrary the principles of equity that Bhya Jha should be allowed to take advantage.

To judge properly of this objection, we must look at the circumstances as they stood at the time when the *Soluhnamah* was executed. The Appellants are not entitled to avail themselves of all the light which subsequent investigation in the course of the suit has thrown upon their claims. If the nature or the extent of the rights of the respective parties could be considered as the fair subject of doubt at the date of the deed, and if, to avoid expense and delay by legal inquiry, they agreed to settle the contest by an amicable arrangement, such transaction is not to be disturbed on the ground of the inequality of benefit which either party may eventually have received from it.

It has ultimately been ascertained that the Ranee, without the authority of the Rajah, her husband, was not entitled to make an adopted heir to her husband's *Zemindary*. But at the date of the *Soluhnamah*, even this point does not seem to have been taken as clearly understood.

Sree Narain Rae and his brother were related to the late Rajah in the seventh degree; and Bhya Jha was her cousin, the son of her uncle; and not only do they in the *Soluhnamah* say, if Bhya Jha was *Khurta Pootra* he was also an heir; but the Judge of the Zillah Court says, if Bhya Jha was really *Khurta Pootra*, he would be entitled by the *Shaster* to the whole estate, real and personal. It appears further, that besides the *Zemindary* of the Rajah, the Rance died possessed of very large *Zemindary* property, part of which had been purchased during a long widowhood of nineteen years. Whether any, and what part of such *Zemindary* property had been given to her by her husband, whether any, or what part of it was purchased with the profits of her husband's *Zemindary*, or any, and what part with her own property, is quite unascertained. Further it appears that she died possessed of more than three lacs of rupees in personal effects, or nearly £30,000. That she was entitled to dispose of her separate property or *Streedhun*, consisting of whatever was given to her by her husband, to her husband's family, or any part of her own family, whether moveable or immoveable, by adopting an heir of her own, appears to have been sufficiently established; whether she was authorized to dispose of landed property, purchased with the profits of her husband's *Zemindary*, and remaining in her possession at her death, became a subject of discussion in the Sudder Dewanny Adawlut; the result of which discussion appears to have been unfavourable to her right; but it could not by any means be treated from the commencement of the adverse claims as a matter free from doubt; for Mr. Harington, in his minute with reference to the final judgment of the Sudder Dewanny Adawlut, though he expresses his concurrence in the result above-mentioned, and refers to the *Bewustas* of the *Pundits* in support of it, remarks that it is not clearly decided by the authority of works of the *Mitheela* school, to which this family belonged, whether any moveable property, inherited by a widow from her husband, and in her possession at the time of her death, or any money or other property arising from the product of the landed estate, during her possession, devolves, on her death, to her own heir or to the heir of her husband.

Under all these circumstances, the true amount of the relative rights of the litigant parties must be considered as having been doubtful, whether the law or the fact be regarded. The uncertain event of the legal part of the case may be inferred from what is contained in the minute of Mr. Harington above referred to. And it is justly observed by Mr. Stuart, the other Judge, that even after all the inquiry which had taken place, the rights of the parties, as they depended on facts, remained so doubtful, that they would even then afford a fair and equitable basis for a compromise.

Upon the whole, therefore, their Lordships are of opinion, that the Appellants have failed to establish that the execution of the *Soluhnamah* was obtained by fraudulent misrepresentation, or concealment, or the execution of it compelled by fear, or that the agreement at the time when it was entered into was not a fair subject of compromise of disputed and doubtful rights: and, consequently, that the Decree of the Sudder Dewanny Adawlut ought to be affirmed.

That Court, though it affirmed the Decree of the Provincial Court, did not give the costs of the Appeal, because a full opportunity of investigating the case in the Court below had not been allowed. But a very full investigation of the case took place in the Sudder Dewanny Adawlut. From the Decree of that Court an Appeal was made to the King in Council, and in consequence of the Appellants having omitted to Appeal, the case was heard *ex parte*, and the Decree affirmed. The Appellants upon a special application to His Majesty in Council were allowed to restore the Appeal, and bring on the case for hearing, their Lordships being of opinion, that instead of affirming the Decree, they ought to have dismissed the Appeal. The case has now been fully considered, and the Judgment being in favour of the

Respondent, affirming the determination of two Courts in India, as well as the former determination here, their Lordships are of opinion that the costs of the Appeal ought to be paid by the Appellants.

29th June and 5th July, 1839.

PRESENT

Lord Brougham, Mr. Justice Bosanquet, Mr. Justice Erskine, and the Right Honourable Dr. Lushington.

Privy Councillors,—*Assessors*, Sir Edward Hyde East, Bart., and Sir Alexander Johnston, Knt.

On Appeal from the Sudder Dewanny Adawlut of Bengal.

RAJUNDER NARAIN RAE and MOHAINDER NARAIN RAE, the two surviving sons and representatives of SREE NARAIN RAE, deceased,* ... ... } *Appellants,*

and

BIJAI GOVIND SING, son and representative of BHYA JHA, deceased, ... } *Respondent.*

The duly authorised admission and consent of a *Vakeel* is binding upon a party though absent at the time of making it.

The words "interest at the rate of 12 per cent. per annum" might mean to exclude what is otherwise generally meant in India, the payment of interest monthly.

5th July LORD BROUGHAM :

THE first question for their Lordships' consideration is, as to the manner of taking the accounts, and whether the liability to pay according to a certain scale was admitted in a competent manner. The Appellant's *Vakeel* is examined, and we find in his evidence, that he admitted the amount stated for principal, but objected only to the interest. He states as follows : "Under these circumstances, I observed that before then, often had mention been made before Mr. John Herbert Harington, the former Chief Justice of the Court, of a settlement of the *Wasilaut* accounts, but the Respondent's *Mokhtar* always said that he would elicit the *Wasilaut* on the gross collections, and the Appellant always objected, by saying that a *Wasilaut* could not be made item by item, because the estate had been given out in farm, and that by such farming out, the sum of 1,12,740 rupees, 7 anas, being profits, was forthcoming with the sureties on account of four years, after paying the public revenues. That from the year 1216 to 1219, deposits had been made at the above rate. That how could he account to Respondents item by item, and strike a balance: in fact, the Appellant has set forth this plea in his petitions, which are in existence among the records. Hence when the said Third Judge made the suggestion upon the ground that the said amount had been deposited in the treasury, it was not equitable that the Appellant should oppose objections to the measure, on which account I admitted it. No letter came to me from Rajah Sree Narain Rae, giving instructions for our admission of the *Wasilaut*, nor did the Appellant's *Mokhtarkar* object to it, but merely objected to the interest. My colleague, Suddanund *Pundit*, also objected to the interest. After this, Shykh Fyazat, Appellant's *Mokhtarkar*, brought a petition for the purpose of its being laid before the Court, bearing the Appellant's seal. I do not know whether at that time Suddanund *Pundit* was in attendance in Court or not, but I filed the petition, putting to it merely my signature. In this Sree Narain Rae made no objection to the sum of 1,12,740 rupees, 7 anas, but he objected to the interest and to the paying over the *Wasilaut* amount to the Respondent, although good and sufficient security had been taken. At length the Judge of the Court fixed the nearest at twelve anas per cent. The petition which has now been presented to the Court, containing objections to the *Wasilaut*, is in opposition to the *Durkhast*, which was presented on the 3rd of January of the present year." That petition was not produced, and doubts as to the evidence of the *Vakeel* have been thrown out in argument,

* 2, Moore's I. A., p. 253.