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(1911) 11 BOM CK 0017

Bombay High Court

Case No: Civil Reference No. 8 of 1911

Hari Venkatesh Pai — APPELLANT

Vs

Hari Venkappa Shetti — RESPONDENT

Date of Decision: Nov. 14, 1911

Citation: (1912) 14 BOMLR 356

Hon'ble Judges: Russell, J; N.G. Chandavarkar, J

Bench: Division Bench

Judgement

1. In our opinion we must answer the question referred to us by saying that the suit will lie. We have no doubt whatever that the legal maxim, namely, where there is a right there is a remedy, applies. The judgment-creditor had a legal right to get the decree executed through the means of the Court. The defendant obstructed him in the exercise of that right and the carrying out of that decree. Therefore, he must be held liable upon the principle which we have mentioned. We would refer to the case of McCartney v. Londonderry and Lough Swilly Railway [1904] A. C. 301, where citing the note to Mellor v. Stateman 1 WS. 612 it is said: " Wherever any act injures another''s right, and would be evidence in future in favour of the wrongdoer, an action may be maintained for an invasion of the right without proof of any specific injury." This principle has been repeatedly recognised and acted upon. It is clearly applicable to the present case. With this answer the papers must be returned to the referring Court.