

**Hasan Malik Vs. Rasul Malik**

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**SooperKanoon Citation :** [sooperkanoon.com/331994](http://sooperkanoon.com/331994)

**Court :** Mumbai

**Decided On :** Jun-17-1913

**Reported in :** (1913)15BOMLR680; 20Ind.Cas.535

**Judge :** Basil Scott, Kt., C.J. and ;Beaman, J.

**Appeal No. :** Civil Application No. 27 of 1913

**Appellant :** Hasan Malik

**Respondent :** Rasul Malik

**Judgement :**

Basil Scott, Kt., C.J.

1. If we assume that the Deputy Collector was invested with the revenue administration of the Taluka so as to enable him to exercise the powers of the Collector under Section 23 of the Mamlatdars Act, the question is whether he has violated the provisions of that section, which says that there should be no appeal from any order passed by a Mamlatdar under this Act. There is not much dispute that the question turns, as far as the evidence before the Mamlatdar is concerned, upon documents. The Mamlatdar attached great importance to a document described as a ' Vahivati Arj' of 1909. The Deputy Collector for certain reasons, which he seems to think were sufficient, comes to the conclusion that the admission contained in the 'Vahivati Arj' is not binding upon the plaintiff, and then upon other documents, which he discusses, held that the plaintiff has shown title,

and therefore he concludes that the plaintiff was in possession, and that the Mamlatdar's decision as to possession was wrong. In coming to this conclusion, it appears to us that he has exercised the powers of an appellate Court. There is no question which gives rise to any need for revision. There is no illegality and no impropriety, and the Deputy Collector cannot give himself jurisdiction by saying that the order appealed against is illegal or improper, where his conclusion simply turns upon appreciation of documentary evidence. We, therefore, set aside the order of the Deputy Collector and restore that of the Mamlatdar with costs.

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