thought that, in considering the question of the competency of a Court within the meaning of section 13 of the code, the Judicial Committee had regard to the question as to the tribunal to which an appeal would lie from such Court. We do not think that the language of the Judicial Committee really bears this meaning. In their judgment reference is made to the anomaly which would arise if the decree of the District Munsif were held to be binding on a superior Court, and it is observed that this anomaly would not be removed by the fact that from both the Courts there would be an appeal, because from the judgment of the Munsif the appeal would lie to the District Court, and a second appeal only on questions of law would lie to the High Court. In the next sentence of the judgment their Lordships explain the meaning of the expression 'concurrent or competent jurisdiction.' The term has regard to the pecuniary limit as well as the subject-matter, and with respect to both those conditions it is plain that in the present case the Court which heard the former suit was equally competent to hear the present suit. There is no authority for the general proposition that the competency of one Court as compared with another is affected by the circumstance that in the one case an appeal lies in the first instance to the District Court and in the other directly to the High Court. In our opinion the suit was rightly dismissed. The appeal fails and is dismissed with costs.

APPELLATE CIVIL.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, and Mr. Justice Davies.

1894. February 27.

SEETHARAMA RAJU (DEFENDANT), APPELLANT,

v.

BAYANNA PANTULU (PLAINTIFF), RESPONDENT.*

Contract—Undue influence—Acquiescence by conduct—Lease for one year at a rental of more than Rs. 100*—Registration—Registration Act—Act III of* 1877, *s.* 17*—Transfer of Property Act—Act IV of* 1882, *ss.* 4 *and* 107.

Where the owner of certain land exchanges it for certain other land, but takes a lease for one year of the former land and pays the rent thereof, and receives and

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* Appeal No. 71 of 1893.

SEETHARAMA RAJU v. BAYANNA PANTULU.

retains the rents of the land he has acquired by the exchange, he shows so complete an acquiescence in the transaction that he cannot afterwards have it set aside on the ground of undue influence.

The fact that such a lease recites the fact of the exchange of the lands does not evidence the exchange, and as such create a title in land. Nor does the fact that the rent reserved under the lease is more than Rs. 200 create an interest in land of Rs. 100 and more in value so as to necessitate registration of the lease under s. 17 of the Registration Act. Such a lease falls under s. 107 of the Transfer of Property Act, the provisions of which section are, by s. 4 of the Act, supplemental to the Registration Act.

APPEAL against the decree of H. R. Farmer, District Judge of Vizagapatam, in original suit No. 33 of 1891.

The District Judge decreed in favour of the plaintiff and the defendant preferred this appeal.

The facts of the case appear sufficiently for the purpose of this report from the judgment of the High Court.

Ramachandra Rau Saheb for appellant.

Mr. *Wedderburn* and *Rangachariar* for respondent.

JUDGMENT.—The defendant owned some land called Burripollem Agraharam, which, in 1875, he exchanged for the plaint land situated in the village of Thandrangi. In 1888 a re-exchange of these same lands was made between the defendant and the plaintiff, but the defendant then took upon lease for one year the Thandrangi lands, the ownership of which he had parted with in the re-exchange, and executed a cowle to the plaintiff, agreeing to give the land up if so required at the end of his year's lease, which expired on the 31st March 1889. Defendant having failed either to take a fresh lease of the land or to vacate it, this suit was brought for the recovery of its possession, together with the mesne profits for the two years for which the defendant had held over. The lower Court decreed for the plaintiff as prayed.

Defendant appeals on several grounds, his chief contention being that he was not willing to make the re-exchange, and that the cowle he executed, admitting his tenancy of the plaint land for one year only, was obtained from him by the undue influence of the plaintiff and his servants, and he is, therefore, not bound by it. He further contends that it is not admissible in evidence, not being registered. The lease being set at nought on these grounds, he contends that he is entitled to retain possession of the plaint land, because he had been in adverse possession of it for

more than twelve years in 1888 even should the exchange of 1875 be found not to have been operative.

There are two grounds on which it is urged that the cowle is inadmissible for want of registration. The first is that the document must be treated as evidencing the re-exchange of the lands, and as such it creates a title in land of Rs. 100 in value. But we cannot accept this view of the document, which is nothing more than it purports to be, namely, a lease for one year. The reference to the exchange is merely a recital therein as to how the plaintiff obtained his title as landlord from the defendant. The actual exchange of the lands is not effected by this document. The second objection is that, although the lease is only for a year, yet as it creates an interest in land of Rs. 100 and more in value, the amount of the rent being Rs. 206–4–0, it requires to be registered under section 17 of the Registration Act. But section 107 of the Transfer of Property Act disposes of this objection. After laying down that leases of immoveable property from year to year or for any term exceeding one year or reserving a yearly rent can be made only by a registered instrument it provides that "all other "leases of immoveable property may be made either by an instru- "ment or by oral agreement." Section 4 of that Act declares that this section 107 shall be read as supplemental to the Registration Act. It follows that the lease in this case did not require to be registered.

As to the allegation of 'undue influence' which the defendant urges as voiding his execution of the cowle, he certainly has adduced evidence showing that pressure was brought to bear upon him. It is highly probable too that it was not with his full and free consent that he gave way to the wishes of the plaintiff, a powerful landholder, in whose employ he also was at the time. A contract made under such pressure is, however, not void, but only voidable. Had the defendant done nothing beyond executing the lease deed, we should probably have found him entitled to relief on this score. But instead of attempting to repudiate it by not acting up to it or by other means, we find the defendant not only paid the rent due under it for the whole year, but he also received and kept the rents of the Burripollem land. All this indicates so complete an acquiescence in the arrangements that had been made subsequent thereto, that we are unable to declare that the defendant is not now bound by them for want of

SEETHARAMA RAJU v. BAYANNA PANTULU.

his consent. A great deal of argument was expended both in this and in the lower Court as to whether the defendant was or was not estopped under section 116 of the Evidence Act from denying the plaintiff's title. It was contended on the strength of the decision in *Lal Mahomed* v. *Kallanus*(1) that that section applied only to cases in which the tenants had been put into possession of the tenancy by the person to whom they have attorned and not to a case such as this, in which the tenant was previously in possession. We are, however, not called upon to decide the question, which is one not altogether free from difficulty, for we find that as a fact the defendant became the tenant of the plaintiff under the document. So that even if the defendant were allowed to dispute the plaintiff's title, it would be found against him as a matter of fact that the plaintiff was his landlord.

Another objection taken to the suit that it was not brought in the name of the Maharajah of Vizianagram, but of his agent, is frivolous, for we find the plaint is actually signed by the Maharajah. The appeal accordingly fails and it is dismissed with costs.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

1894. January 25.

QUEEN-EMPRESS

v.

FAKRUDEEN.*

Police (Madras) Act XXIV of 1859, *ss.* 10 *and* 44—*Departmental punishment and prosecution under the Act.*

In the absence of any rules framed by Government under section 10 of the Madras Police Act, a departmental punishment inflicted under that section is no bar to a prosecution under section 44 of that Act.

CASE referred for the orders of the High Court under section 438 of the Criminal Procedure Code by K. C. Manavedan Raja, Acting District Magistrate of Anantapur.

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(1) I.L.R., 11 Calc., 519.

* Criminal Revision Case No. 614 of 1893.