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name of others *benami* for him. The Subordinate Judge passed a decree for declaration as prayed.

The defendant preferred this appeal.

Sankaran Nayar for appellant.

The Acting Advocate-General (Hon. *V. Bhashyam Ayyangar*) and *Ayya Ayyar* for respondent.

JUDGMENT.—It is contended that because the plaintiff acquired the property in the defendant's name for the purpose of concealing it from Government, he being an official of Government, who was not authorized to acquire land, the plaintiff cannot recover possession of it from the defendant or obtain any relief in respect of it. We are unable to accept this view. No doubt the plaintiff intended to conceal the acquisition of the land from the authorities and acted dishonestly and in contravention of the rules of his department. But we do not think he can be said to have acted illegally so as to bring the case within the principle that a man is precluded from obtaining relief in respect of a transaction, the purpose of which was illegal and has been accomplished. As to the question whether a declaratory suit lay, we are of opinion that the Judge is right. The defendant never asserted he was in possession and the finding is that he was not.

We dismiss the appeal without costs, as also the memorandum of objections.

APPELLATE CIVIL.

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

SRINIVASA CHARLU (PLAINTIFF), PETITIONER,

v.

BALAJI RAU AND OTHERS (DEFENDANTS), RESPONDENTS.*

*Presidency Small Cause Courts' Act—Act XV of 1882, s. 37—Amendment Act—
Act I of 1895, s. 13—Powers of Full Bench—Appeal.*

Act I of 1895, section 13, does not empower the Full Bench of the Presidency Court of Small Causes to entertain appeals of questions of fact against the decree of one of the Judges of the Court.

* Civil Revision Petition No. 375 of 1896.

PETITION under Civil Procedure Code, section 622, praying the High Court to revise the order of the Full Bench of the Presidency Court of Small Causes in Small Cause Suit No. 544 of 1896.

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The petitioner was the plaintiff in the suit. The suit was dismissed and he made an application to the Full Bench on the ground that the evidence had been wrongly appreciated. The Full Bench declined to entertain the application and dismissed it. The grounds of his present petition were, *inter alia*, the following:—

“(1) The Full Bench of the Presidency Court of Small Causes has failed to exercise jurisdiction vested in it by law.

“(2) The Full Bench erred in dismissing the plaintiff’s appeal to it.

“(3) The Full Bench ought to have held that, under the amended Presidency Small Cause Courts’ Act I of 1895, an appeal is allowed to the Full Bench on questions of fact and law.

“(4) The Small Cause Judge having admittedly not acted upon the defendants’ accounts, no valid reasons have been assigned for not accepting the payment of the 100 rupees in July 1893 as proved by the plaintiff’s witnesses.”

Ranga Rau for petitioner.

Respondents were not represented.

JUDGMENT.—It is urged before us that the ruling of this Court in *Sadasook Gambir Chund v. Kannayya*(1) with regard to the powers of the Full Bench of the Presidency Small Cause Court to revise a decree of a single Judge or order a new trial under section 37 of Act XV of 1882 as it stood before amendment, is inapplicable since the amendment of the Act by section 13 of Act I of 1895.

We are unable to find any ground whatever for this contention. The alterations relied on are two in number. The first is merely an alteration in the title of the chapter. It is now entitled “new trials and appeals” instead of “new trials and rehearing.”

The change is intended merely to express more fully the subject of the chapter, for it contains the very important provision that “every decree and order of the Small Cause Court in a suit shall be final and conclusive”; in other words, that no appeal

(1) I.L.R., 19 Mad., 96.

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shall lie. It is futile to argue that, because the word "appeals" appears in the title of the chapter, it must therefore allow appeals, notwithstanding the express words of section 37.

The second alteration is that in the present section 38, the words "where a suit has been contested" are introduced before the provisions which relate to the cases in which a new trial or revision may be allowed. The effect of this addition is to restrict, not to extend, the powers given in the section. Under the unamended law those powers might have been exercised in any proper case without regard to the question whether the suit was contested or uncontested. Under the amended law those powers can only be exercised in contested cases. In other respects, the terms of the section remain exactly as they were before.

Thus the effect of the recent alteration is not to extend the powers of revision, as urged by the appellant, but, on the contrary, to limit them to contested cases. The limitations on those powers, which were shown in the ruling of this Court in the case above referred to, remain unaffected by the recent change in the law, and in addition there is now imposed this further limitation, viz., that the powers shall not be exercised at all in cases that have not been contested.

There is thus no ground for our interference with the order of the Full Bench of the Small Cause Court.

We dismiss this petition.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar and Mr. Justice Boddam.

CHINNASAMI PILLAI (PLAINTIFF), APPELLANT,

v.

KARUPPA UDAYAN AND OTHERS (DEFENDANTS NOS. 1 TO 8
AND 10 AND 11), RESPONDENTS.*

*Civil Procedure Code—Act XIV of 1882, s. 2—Suits Valuation Act—Act VII of 1887,
s. 8—Suit for partition—Order by Appellate Court directing that the plaint be
returned—Appeal against such order—Amendment of memorandum of appeal.*

The plaintiff sued in the Court of the District Munsif to recover his share of family property. The amount of the property exceeded, but the amount of the

* Appeal against Order No. 184 of 1895.