

prostitution and took the plaintiff and defendant with her to nautches during their minority.

SANJIV
*
JALAJAKSHI.

The evidence also shows that, from the time that plaintiff and first defendant arrived at puberty, they have been prostitutes.

In these circumstances it is idle, in the absence of any trustworthy evidence to that effect, to contend, as plaintiff's vakil now does, that the plaintiff's adoption was with a view to giving her in marriage rather than for prostitution. An adoption made as this was with such intention after the Indian Penal Code came into force is illegal, and can give the plaintiff no right to claim the property of Lacha by inheritance. In this view it is not necessary to consider the second objection to the validity of the adoption. Both appeals must, therefore, be allowed with costs and the plaintiff's suit dismissed with costs.

APPELLATE CIVIL.

Before Mr. Justice Shephard and Mr. Justice Subramania Ayyar.

LOBO (DEFENDANT), APPELLANT,

v.

BRITO (PLAINTIFF), RESPONDENT.*

1897.
September
22.

Specific Relief Act—Act I of 1877, s. 42—Benami purchase by a Government officer prohibited from acquiring land—Suit for declaration against benamidar.

The plaintiff sued for declaration of his title to certain land which had been purchased by him in the name of the defendant. The object of the transaction was to conceal from the Collector the fact that the plaintiff, who was a Tahsildar, had acquired property in his taluk contrary to the rules of his department:

Held, that the plaintiff was entitled to the declaration sought.

APPEAL against the decree of U. Achutan Nayar, Acting Subordinate Judge of South Canara, in Original Suit No. 33 of 1895.

The plaintiff sued for a declaration of his title to certain land. The title-deeds of the land stood in the name of the defendant, but it had, in fact, been acquired by the plaintiff who was a Tahsildar and as such prohibited, by the order of Government, from acquiring property within his taluk either in his own name or in the

* Appeal No. 134 of 1896.

LOBO
*
BAIRO.

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.