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son making the same on the instrument on which the debt arises, or in his own books, or in the books of the creditor. The appellants cannot then be held to have reasonable ground to apprehend injury from the document. The appeal is dismissed with costs.

*Appeal dismissed.*

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March 26.

## APPELLATE CIVIL.

*Before Mr. Justice Turner and Mr. Justice Oldfield.*

GOPAL (PLAINTIFF) v. NANKU AND ANOTHER (DEFENDANT). \*

*Execution of the Decree of a Court of Small Causes against Immoveable Property—Act XI of 1865, ss. 20, 51.*

The Judge of a Court of Small Causes, who has been duly invested with the powers of a Subordinate Judge under the provisions of s. 51 of Act XI of 1865, has "general jurisdiction" within the meaning of s. 20 of that Act, and can consequently, under the provisions of that section, enforce a decree under that Act against the immoveable property of the judgment-debtor.

THIS was a suit to establish a right to certain immoveable property and for possession of the same. After the sale of the moveable property of one Nanku in the execution of a decree made by the Judge of the Court of Small Causes at Allahabad under Act XI of 1865, a certain portion of the judgment-debt remained due. The decree-holder, being desirous of issuing execution upon the immoveable property of Nanku, applied, under the provisions of s. 20 of Act XI of 1865, to the Judge for the certificate required by that section. Having obtained this certificate, he applied to the Judge for the enforcement of the decree against the immoveable property in suit. The Judge, in the exercise of the powers of a Subordinate Judge with which he had been duly invested under the provisions of s. 51 of Act XI of 1865, proceeded to enforce the decree against the property. The property was sold in the execution of the decree on the 7th August, 1876, and was purchased by the plaintiff. The plaintiff resisted in obtaining possession of the property by one Ishri Prasad, who claimed a right to such possession in virtue of a sale to him by Nanku. The plaintiff having complained to the Judge, the Judge inquired

\* Second Appeal, No. 1385 of 1877, from a decree of H. Lushington, Esq., Judge of Allahabad, dated the 17th September, 1877, affirming a decree of Babu Mritonji Muckerji, Munsif of Allahabad, dated the 20th April, 1877.

into the matter, under the provisions of s. 269 of Act VIII of 1859, and holding that Ishri Prasad was in *bonâ fide* possession, declined to interfere. The plaintiff accordingly brought the present suit to establish his right to the property as auction-purchaser of it and for possession. The lower Courts concurred in holding that the plaintiff's title was invalid, as the Judge of the Small Cause Court was not competent to enforce the decree under s. 20 of Act XI of 1865.

The plaintiff appealed to the High Court.

The *Junior Government Pleader* (Babu Dwarka Nath Banarji) and Babu Oprokash Chandar, for the appellant.

The *Senior Government Pleader* (Lala Juala Prasad) and Munshi Hanuman Prasad, for the respondents.

The judgment of the Court was delivered by

TURNER, J.—The Judge of a Small Cause Court, when duly invested with the powers of a Subordinate Judge, has, in the exercise of such powers, general jurisdiction. He was therefore competent to order a sale of immoveable property within his jurisdiction. The decree of the lower appellate Court must be set aside, and the case remanded for trial on the merits. The costs of the appeal will follow and abide the result.

*Cause remanded.*

## FULL BENCH.

Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Pearson, Mr. Justice Turner, Mr. Justice Spinkie, and Mr. Justice Oldfield.

EMPRESS OF INDIA v. KASHMIRI LAL.

Act X of 1872 (*Criminal Procedure Code*), ss. 435, 436, 467, 468, 469, 471, 472, 473—*False Evidence—Offence against Public Justice—Offence in Contempt of Court—Act XLV of 1860 (Indian Penal Code)*, s. 193—*Prosecution—Procedure.*

Held (STUART, C.J., dissenting,) that an offence under s. 193 of the Indian Penal Code, being an offence in contempt of Court within the meaning of s. 473 of Act X of 1872 (1), cannot, under that section, be tried by the Magistrate before whom such offence is committed. *Queen v. Kultaran Singh* (2) and *Queen v. Jagat Mul* (3) overruled.

(1) See also *Reg. v. Navranbeg Dula-beg*, 10 Bom. H. C. Rep., 73; *Reg. v. Gaji Kom Ranu*, I. L. R., 1 Bom. 311; 7 Mad. H. C. Rep., Rulings xvii. and

xviii. On the other hand see the case of *Sufatollah*, 22 W. R. Cr. 49.

(2) I. L. R., 1 All. 129

(3) I. L. R., 1 All. 162

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