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determine any one of the matters contained in the section. If this is one of those matters referred to in cl. (*i*), s. 241, no want of clearer specification of the powers of the different revenue authorities, no omission of the class of case outside the section, and no ambiguity or defect in the Act, can give the Civil Courts the jurisdiction which the opening words of the section expressly bar.

I would answer that this case should be heard by the revenue authorities.

BEFORE A FULL BENCH.

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(*Mr. Justice Turner, Officiating Chief Justice, Mr. Justice Pearson, Mr. Justice Spankie, and Mr. Justice Oldfield.*)

GHASI RAM (DECREE-HOLDER) *v.* MUSAMMÁT NURÁJ BEGAM (JUDGMENT-DEBTOR.)*

Letters Patent, cl 10—Appellate Civil Jurisdiction—Appeal from Judgment of Division Court.

To allow of an appeal to the High Court against the judgment of a Division Court, under the provisions of cl. 10 of its Letters Patent, there must be such a judgment on the part of all the Judges who may compose the Division Court as disposes of the suit on appeal before it.

APPLICATION was made on the 8th October, 1874, to the Subordinate Judge of Cawnpore by Musammát Nuráj Begam, on behalf of her minor daughters, to set aside the sale in execution of a decree of their rights and interests in certain villages on the ground that written notifications of the sale were not affixed in the villages, in consequence of which irregularity they were sold for a price inadequate to their value. The Subordinate Judge rejected the application, holding that no irregularity in the publishing of the sale was shown. The judgment-debtors appealed to the High Court. The appeal came on for hearing before a Division Court consisting of Stuart, C. J. and Spankie, J. It was contended by the appellant that notifications of the sale were not affixed in all the villages, whereby the judgment-debtors sustained substantial injury. The learned Judges differed in opinion.

* Appeal under cl. 10 of the Letters Patent, No. 6 of 1875.

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STUART, C. J.—This appeal was not satisfactorily maintained at the hearing, but it appears to me to be at least doubtful whether a fair price was obtained for the property sold, and it being the property of minors, it is our duty to see that no substantial injustice has been done, and to remand the case, in order to obtain more reliable data. Inadequacy of price is not only pleaded before us, but it appears from the record that a petition was presented in the execution department in behalf of the minors; that this objection was distinctly taken below; and there is evidence, although apparently not of much value, yet something like evidence, going to show that the price obtained at the sale was very much less than, according to one witness, about one-fourth of its true value.

Under these circumstances, I think it would be proper to remand the case under s. 354 for further and more distinct evidence on the point whether the property was sold for a price grossly inadequate, and also whether there was anything in the manner of the sale, with respect to the formalities, or otherwise, which could have conduced to such a result. On receipt of the record with this new matter, a week to be allowed for objections.

SPANKIE, J.—It was sufficiently established before the Subordinate Judge that the sale was properly notified in all respects, and indeed the petition of the judgment-debtor praying that the sale might be set aside does not dispute this fact. There has been no informality in the sale, and I agree with the Subordinate Judge in his finding on this point.

There is no evidence worth consideration in support of the plea that the property was sold for an inadequate price. I should be sorry to injure the minors if the property sold be theirs. But we have nothing to do with inadequacy of price in the case before us. Under s. 256, Act VIII. of 1859, a sale becomes absolute when confirmed by the Court directing it to take place. But it may be set aside, if application should be made within thirty days to set it aside, on the score of any material irregularity in publishing or conducting the sale, and no sale shall be set aside on the ground of such irregularity unless the applicant show to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity. We cannot therefore go into the ques-

tion whether the sale price was inadequate or not. I would dismiss the appeal and affirm the judgment with costs.

The decree-holder appealed to the Full Court against the order of the learned Chief Justice, under the provisions of cl. 10 of the Letters Patent, the grounds of appeal being that the order remanding the case under s. 354 of Act VIII. of 1859 for further enquiry was invalid, inasmuch as there was nothing to show that there was any irregularity in conducting or publishing the sale, or that the judgment-debtors sustained any injury thereby; and that the mere allegation of inadequacy of price, unsupported by reliable evidence, did not justify a remand for further evidence into that question, as no sale, if otherwise shown to be valid, could be set aside only on that ground.

Pandit *Bishambar Náth* for appellant.

Pandit *Ajudhia Náth* for respondents.

The following judgment was delivered :—

It has been argued it is doubtful from the language of the honorable the Chief Justice whether, under s. 354, Civil Procedure Code, he intended to frame and remit issues for trial, or under s. 355 merely to direct the Court below to take further evidence. We think it unnecessary to determine this point, because we are of opinion that in either view this appeal cannot be entertained.

There has been no judgment in the sense in which we construe that term in cl. 10 of the Letters Patent. There must be such a judgment on the part of all the learned and honorable Judges who may constitute a Bench as disposes of the suit on appeal before it. The learned Chief Justice has as yet recorded no such judgment, and to enable the Bench to do so, he has considered it necessary to obtain further materials.

Under the circumstances, we reject the appeal, and as the respondents have appeared, with costs.