

1880
May 27.

Before Mr. Justice Pearson and Mr. Justice Oldfield.

KARMAN BIBI AND OTHERS (PETITIONERS) *v.* MISRI LAL (PLAINTIFF).*

*Addition of Parties—Appeal—Act X of 1877 (Civil Procedure Code), ss. 32, 588—
Act XII of 1879, s. 90 (2).*

An order refusing an application, under s. 32 of Act X of 1877, by a person to be added as a defendant in a suit is not appealable.

ONE Karman Bibi and certain other persons applied, under s. 32 of Act X of 1877, to be joined as defendants in a suit brought by one Misri Lal which was pending in the Court of the Subordinate Judge of Azamgarh. The Subordinate Judge refused this application, holding that the rights and interests of the applicants could not be dealt with in the suit, and that if they were made defendants, there might be a misjoinder of parties, and the plaintiff in the suit would be unnecessarily burdened with costs.

Karman Bibi and the other applicants appealed against this order to the High Court.

Mir Akbar Husain, for the appellants.

Lala Lalta Prasad, for the respondent.

The judgment of the Court (PEARSON, J., and OLDFIELD, J.) was delivered by

PEARSON, J.—Under s. 588, Act X of 1877, as amended by Act XII of 1879, orders under s. 32 striking out or adding the name of any person as plaintiff or defendant are appealable; but the order which is the subject of the present appeal is not an order of the kind above mentioned. It is an order refusing to make the appellants defendants in the suit; and there is no provision in the law for an appeal from such an order. The appeal is therefore disallowed with costs.

Appeal dismissed.

* First Appeal, No. 43 of 1880 from an order of Rai Bhagwan Prasad, Subordinate Judge of Azamgarh, dated the 6th March, 1880.