

I think this was a most objectionable course in a case of this description, and, whether it amounts to an irregularity or an illegality, which I do not think it necessary to decide, I think that the accused persons were prejudiced, and that the conviction under such circumstances should not stand. I accordingly set it aside. I am informed that the petitioners have had nearly three months' imprisonment already; and, assuming the facts as stated by the convicting Magistrate to be accurately stated for this purpose, I do not think it necessary to direct that any further proceedings should be taken.

The order as to security is quashed.

APPELLATE CIVIL.

Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Tyrrell.

GAURI SHANKAR (DEPENDANT) v. BABBAN LAL AND ANOTHER (PLAINTIFFS).^{*}
Act XIX of 1873 (N.-W. P. Rent Act), s. 221—Civil Procedure Code, s. 521—
Arbitration—Award delivered after expiration of time allowed by Court.

The principle of the ruling of the Privy Council in *Raja Har Narain Singh v. Chaudhrain Bhagwant Kuar* is applicable also to arbitrations under s. 221 of Act No. XIX of 1873.

The facts of this case sufficiently appear from the judgment of the Court.

Mr. C. C. Dillon, for the appellant.

Munshi Jwala Prasad, for the respondents.

EDGE, C. J., and TYRRELL, J.—This was a suit for rent in the Revenue Court. It was referred to arbitration under s. 221 of Act No. XIX of 1873, and in the order of reference the time for delivery of the award was specified. The award was not delivered until after that time. Although our attention has not been drawn to any express provision of Act No. XIX of 1873, similar to that contained in the last paragraph of s. 521 of Act No. XIV of 1882,

^{*} Second Appeal No. 889 of 1889 from a decree of W. J. Martin, Esq., District Judge of Mirzapur, dated the 13th April 1889, confirming a decree of Maulvi Muhammad Ismail Khan, Deputy Collector of Mirzapur, dated the 28th January 1889.

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we think that the principle of the decision of their Lordships of the Privy Council in *Raja Har Narain Singh v. Chaudhrai Bhagwant Kuar* (1) applies. We should say that there was here no extension of time, and that it was really the acts of the parties which caused the award not to be made within the time allowed. However, as s. 221 of Act No. XIX of 1873 enacts that the time for the delivery of the award *shall* be specified in the order of reference, we must give effect to it and hold that the award was bad. The proceedings on the award *must* be treated as null and void. We set aside those proceedings and refer this case back to the first Court, which will dispose of the suit according to law. Costs will abide the result.

Cause remanded.

Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Tyrrell.

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KHARAG PRASAD BHAGAT AND ANOTHER (PLAINTIFFS) v. DURDHARI RAI AND OTHERS (DEFENDANTS).*

Jurisdiction—Dismissal of suit by Munsif on preliminary point—Demand by Subordinate Judge on appeal—Fresh appeal before second Subordinate Judge, who disagrees with the finding of the former Subordinate Judge.

Where there are two Subordinate Judges in the same place, one of such Judges is not competent to overrule the decision of the other. The Court is one, though there are separate presiding officers. *Suraj Din v. Chattar* (2) and *Ram Kirpal v. Rup Kuari* (3) referred to.

The facts of this case sufficiently appear from the judgment of the Court.

The Hon'ble Mr. *Spankie* and *Munshi Jwala Prasad*, for the appellants.

Mr. *Amiruddin*, for the respondents.

EDGE, C. J., and TYRRELL, J.—This suit was instituted in the Court of the Munsif of Ballia, who dismissed the suit on the ground that the suit should have been brought in the Revenue Court, and

* Second Appeal No. 1148 of 1889 from a decree of Pandit Bansidhar, Subordinate Judge of Ghazipur, dated the 28th August 1889, confirming a decree of Maulvi Abdul Ghafor, Munsif of Ballia, dated the 16th January 1889.

(1) L. R., 18 I. A. 51 s.c. I. L. R.,
13 All. 300.

(2) I. L. R. 3 All. 755.

(3) I. L. R. 6 All. 269.