

was admissible in evidence and wrongly excluded by the learned Judge. This being the case, we set aside the judgment and decree of the lower appellate Court and decree the appeal. As regards the interest claimed by the appellant we find no evidence, and have not been referred to any, of any intention to pay interest. The appellant's claim therefore, so far as regards the principal, will stand decreed and as regards interest it will stand dismissed with proportionate costs.

BLAIR, J.—I agree entirely.

Appeal partly decreed and partly dismissed.

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BISHAMPUR
NATH
v.
NAND
KISHORE.

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

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November 11.

GIRDHARI (DEFENDANT) v. KANHAIYA LAL (PLAINTIFF).*

Civil Procedure Code, s. 52—Plaint, form of verification of.

In order to constitute a proper verification of a plaint within the meaning of s. 52 of the Code of Civil Procedure, it is necessary for the person verifying, if all the facts are within his knowledge, to state distinctly that they are to his knowledge true; and if he has knowledge as to some and only information and belief as to others, to state to which he speaks from his knowledge and to which from his information and belief. A verification in the form:—"To the limit (or extent) of my knowledge the purport of this is true," is not such a verification as satisfies the requirements of s. 52 of the Code. In the matter of *Upendro Lal Bose* (1) referred to.

The facts of this case, so far as they are necessary for the purposes of this report, appear from the judgment of the Court.

Mr. T. Conlan and the Hon'ble Mr. Colvin, for the appellant.

Munshi Kashi Prasad, for the respondent.

EDGE, C. J., TYRRELL and BLAIR, JJ.—Objection is taken here, and seems to have been taken in the two Courts below, that the plaint was not signed as required by s. 51 of the Code of Civil Procedure. It is alleged on behalf of the defendant-appellant that at the time when the plaintiff signed the sheet of paper which at present forms the second sheet of the plaint the plaint had not been written,

* Second appeal No. 630 of 1889 from a decree of Babu Kashi Nath Biswas, Subordinate Judge of Agra, dated the 8th March 1889, confirming a decree of Maulvi Muhammad Ismail, Munsif of Mathura, dated the 10th June 1888.

(1) I. L. R. G, Calc. 675.

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in other words, that what purports now to be the signature to the plaint was a signature made before the plaint came into existence. We have no doubt that what is required by s. 51 is that the plaint must be in existence before the signature is put to it. Our attention has been drawn to the evidence of the plaintiff's mukhtar or karinda and of the plaintiff himself. It is somewhat doubtful what the true interpretation of the mukhtar's evidence is on this point. That apparently was the only evidence which was looked at by the Subordinate Judge. To our minds the plaintiff's evidence makes the matter more clear. However, we are sitting here in second appeal, and it is not for us to find issues of facts. We remand this case to the Court of the Subordinate Judge for a finding as to whether the plaint was written partly on a stamped paper and partly on an unstamped paper, but was or was not wholly written before what purports to be the plaintiff's signature was put to the unstamped paper.

Another objection has been taken as to the nature of the verification. The verification which was made was as follows:—"To the limit of my knowledge the purport of this is true." That is not the verification which is required strictly under s 52. The verification under that section must be, if all the facts are to the knowledge of the deponent, a distinct verification that they are to his knowledge true. If he has knowledge as to some, and only information and belief as to others, the verification should show as to which he speaks from his knowledge and as to which he speaks from his information and belief. This matter was discussed in "In the matter of *Upendro Lal Bose* (1)" and we agree in the view there expressed as to what the practice should be as stated in the first paragraph of p. 678 of the report. The verification in this case appears to follow or be to the effect of s. 52 of the Code as translated into Hindustani in the authorized vernacular translation of the Code. How it came to be mistranslated in the authorized version we do not know, probably the translator may have followed some previous precedents based originally on s. 27 of Act VIII of 1859, which required a very different verification from that which

(1) I. L. R. 6, Calc. 675.

is required by s. 52 of the present Code. Although the verification is a matter of great importance, we do not attach much weight to the error in verification in the present instance, as the party making it may have been misled by the authorized translation of the Code. Ten days will be allowed for objection on the return to the remand.

Case remanded.

REVISIONAL CRIMINAL.

Before Mr. Justice Knox.

MEHDI HASAN (APPLICANT) v. TOTA RAM (OPPOSITE PARTY).

Criminal Procedure Code, ss. 195, 404, 439—Sanction to prosecute—Appeal—Revision.

The proceeding under s. 195 of the Code of Criminal Procedure by which an order granting or refusing to grant sanction to prosecute may be set aside is a proceeding in revision and not by way of appeal.

The facts of this case, so far as they are necessary for the purposes of this report, appear from the judgment of KNOX, J.

Mr. *Wallach*, for the applicant.

Babu *Sital Prasad Chatterji*, for the opposite party.

KNOX, J.—This case is represented as an appeal under s. 195 of the Code of Criminal Procedure from an order of the Sessions Judge of Mainpuri granting sanction for a criminal prosecution under section 193 of the Indian Penal Code.

A preliminary objection has been urged to the effect that no appeal lies from orders passed under s. 195 of the Criminal Procedure Code, and I have been referred to s. 404 in support of the contention. Section 404 provides in express terms that, except as provided by this Code, no appeal shall lie from any order of a Criminal Court. No direct provision of the Code has been pointed out to me as sanctioning an appeal from orders passed under s. 195. It has, however, been contended by Mr. *Wallach*, who appears for the appellant, that the words contained in s. 439 of the Code of Criminal Procedure do recognise the power of revoking a sanction

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