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AJUDHIA
BAKHSI
SINGH
v.
ARAB ALI
KHAN.

in a separate suit, but not as defendant in this suit. The plaintiffs-purchasers are entitled to possession, and we must therefore affirm the decision of the Courts below, and dismiss this appeal with costs.

TYRRELL, J.—I concur in the decision of the learned Chief Justice that this appeal must be dismissed with costs.

Appeal dismissed.

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July 13.

Before Sir W. Comer Petheram, Kt., Chief Justice, and Mr. Justice Brodhurst.

BHOLA AND OTHERS (PLAINTIFFS) v. RAMDHIN AND OTHERS (DEFENDANTS).*

Question of proprietary right decided by Revenue Court under Act XIX of 1873 (N.-W. P. Land Revenue Act), s. 113—Omission by Revenue Court to frame decree—Decision of Revenue Court not open to attack by suit in Civil Court—Act XIX of 1873, s. 113.

A Revenue Court acting under the provisions of ss. 112 and 113 of the N.-W. P. Land Revenue Act (XIX of 1873) recorded a proceeding declaring the nature and extent of the respective rights of the parties before the Court, and prescribing the mode in which partition should be effected. No decree was framed in accordance with this proceeding.

Held, that the proceeding of the Revenue Court was a decision by a Court of competent jurisdiction, and could not be interfered with by a suit in the Civil Court disputing its correctness.

THIS was a suit for possession of a one-fourth share of certain khatas of land in a village called Basehra, and for a declaration that the defendants were not entitled to possession thereof. It appeared that in 1883 the defendants applied to the Revenue Court for partition of the shares in the land in question, and that the plaintiffs objected that the applicants, having been out of possession for more than twelve years, were not competent to obtain partition, and that they themselves, by long-continued possession and cultivation, had acquired exclusive proprietary rights in the land. The Revenue Court decided this point adversely to the plaintiffs, and recorded a proceeding declaring the nature and extent of the respective rights of the parties, and prescribing the mode in which partition should be effected. No decree was framed in accordance with this proceeding.

* Second Appeal No. 1354 of 1884, from a decree of A. Macmillan, Esq., District Judge of Meerut, dated the 10th June, 1884, affirming a decree of Maulvi Mawir-ud-din Ahmad, Munsif of Gaziabad, dated the 31st March, 1884.

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The plaintiffs subsequently brought the present suit against the same defendants in the Court of the Munsif of Gháziabad. The Munsif was of opinion that the suit would not lie, inasmuch as the Revenue Court had acted under the provisions of ss. 112 and 113 of the N.-W. P. Land Revenue Act (XIX of 1873), and its decision was, under s. 114, equivalent to a decision of a Civil Court, and, as such, open to appeal to the District or High Court; but that the plaintiffs could not, without instituting such appeal, attack that decision by suit. The Court accordingly dismissed the claim. On appeal, the District Judge of Meerut affirmed the decree. The lower appellate Court observed:—"It appears from the ruling in *Ranjit Singh v. Ilahi Bakhsh* (1) that the Civil Courts could have been moved to direct the Revenue Court to frame a decree in accordance with the proceedings declaring the nature and extent of the interests of the parties, and that an appeal could have been laid from that decree. The decision of the Revenue Court, as set forth in its proceeding, though not followed by a decree, was a decision by a competent Court, and is a bar to the institution of this suit."

The plaintiffs appealed to the High Court, on the grounds that "the lower Courts were wrong in holding that the finding of the Revenue Court in the partition suit barred the present suit, because the said finding was not an order or decision in conformity with the provisions of s. 113 of the Revenue Act;" and that "inasmuch as the question of right raised in the partition case was not inquired into in the manner provided by s. 113, there could be no such determination of title as would bar the present suit."

Babu *Jogindro Nath Chaudhri*, for the appellants.

Mr. *J. E. Howard*, for the respondents.

PETHERAM, C. J., and BRÖDURST, J.—We think that this appeal must be dismissed. The simple question before us is, whether the Civil Court can interfere with the decision of a question decided by a Court of competent jurisdiction by a suit filed for that purpose. It is urged that the Revenue Court, whose decision is impugned, did not act in conformity with the provisions of the

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law. That would be a good reason probably for an application to correct that decision ; but, so long as it stands, it is a decision of a Court of competent jurisdiction, and cannot be interfered with by the present proceedings. If the parties wish to dispute the correctness of the decision, they should take other steps. The decree of the lower appellate Court is affirmed, and this appeal is dismissed with costs.

Appeal dismissed.

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July 18.

Before Sir W. Comer Petheram, Kt., Chief Justice, and Mr. Justice Straight.

DEBI DAS (DEFENDANT) v. LACHMAN SINGH (PLAINTIFF).*

Small Cause Court suit—Suit to recover a share of money recovered by co-plaintiff under a decree—Act XI of 1865 (Mufassal Small Cause Courts Act) s. 6.

Held that a suit to recover a share of money which had been recovered by a co-plaintiff under a decree was a claim for money due on a contract, within the meaning of s. 6 of the Mufassal Small Cause Courts Act (XI of 1865), and was therefore a suit of the nature cognizable by a Court of Small Causes, in which, under s. 586 of the Civil Procedure Code, no second appeal could lie.

THE facts of this case are sufficiently stated for the purposes of this report, in the judgment of Petheram, C. J.

Pandit *Ajudhia Nath*, for the appellant.

Babu *Jogindro Nath Chaudhri*, for the respondent.

PETHERAM, C. J.—When this case was called on, it was urged as a preliminary objection that, the suit being one cognizable by a Court of Small Causes, and being in respect of a claim of less than Rs. 500 in value, there was no second appeal to this Court. This objection has been argued at some length before us, and I am of opinion that it must prevail, and that the appeal to this Court will not lie. The action was brought to recover a share of money recovered under two decrees passed in suits in which the plaintiff and defendants, or the persons through whom they claim, were plaintiffs-decree-holders. The plaintiff and defendants in this suit, or those through whom they claim, were joined in these two suits as plaintiffs, and this suit is brought to recover the share which belonged to one of those plaintiffs as between him and his co-plaintiff. In my opinion, the suit is founded on a contract, and is with-

* Second Appeal No. 1276 of 1884, from a decree of Maulvi Muhammad Sami-ulla Khan, Subordinate Judge of Aligarh, dated the 23rd July, 1884, affirming a decree of Pandit Rajnath, Munsif of Aligarh, dated the 30th August, 1883.