

1885

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mood, JJ, and the facts of the case, and the judgments of the learned Judges, will be found reported at p. 411, *ante*. Their Lordships differed in opinion, Oldfield, J., holding that the application should be dismissed, on the ground that the Court had no jurisdiction to entertain it, and Mahmood, J., holding that it should be allowed. An appeal was preferred by the applicants to the Full Court, from the judgment of Oldfield, J., under s. 10 of the Letters Patent for the N.-W. Provinces.

Pandit *Ajudhia Nath* and Munshi *Kashi Prasad*, for the appellants.

Babu *Ram Das Chakarbat*i and Munshi *Ram Prasad*, for the respondents.

The following judgments were delivered by the Full Bench :—

PETHERAM, C. J.—For the reasons stated in the judgment of Mr. Justice Mahmood, I am of opinion that this application must be allowed with costs.

STRAIGHT, BRODHURST, and TYRRELL, JJ., concurred.

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

RAGHUNATH DAS (PETITIONER) V. RAJ KUMAR (OPPOSITE PARTY) *

Civil Procedure Code, ss. 206, 622—Order amending decree in respect of court-fee in pre-emption suit—High Court's powers of revision.

An order as to costs, contained in a decree for pre-emption, directed that the pleader's fees should be calculated with reference to the value of the claim as set forth in the plaint. Subsequently the Court, professing to act under s. 206 of the Civil Procedure Code, passed an order directing the amendment of the decree by calculating the pleader's fees upon the actual value of the property.

Held by the Full Bench that the alteration of the decree was improper, and was not an amendment of the kind authorized by s. 206 of the Civil Procedure Code.

An order passed under s. 206 amending a decree is a separate adjudication, and is not merely a part of the original decree, and such an order is not appealable under s. 588 of the Code. Such an order, therefore, can be revised by the High Court, under s. 622.

The judgment of OLDFIELD, J., (1) reversed, and that of MAHMOOD, J., (2) affirmed.

* Appeal No. 3 of 1885, under s. 10, Letters Patent.
(1) *Ante*, p. 277. (2) *Ante*, p. 278.

1885
July 4.

1885

 RAGHUNATH
 DAS
 v.
 RAJ KUMAR.

IN this case, a decree in a suit to enforce a right of pre-emption was passed by the Subordinate Judge of Bareilly on the 24th March, 1884, and the order contained in that decree as to costs directed that the pleader's fees should be calculated with reference to the value of the claim as set forth in the plaint. On the 18th April, 1884, the defendant applied to the Court to amend its decree in regard to costs, on the ground that the pleader's fees should be calculated with reference to the actual value of the property to which the suit related. On the 6th May, 1884, the Court passed an order as follows:—"In pre-emption cases, fees should be calculated upon the actual value of the property, and not upon any other value. In preparing this decree, the value of the property was not regarded, and fees were computed on the amount of the claim. The decree should be corrected, and it is therefore ordered that the original decree be amended, and after the copy thereof has been amended, it may be returned to the applicant."

The defendant applied for revision of this order to the High Court. It was contended that the pleader's fees had been wrongly computed with reference to the actual value of the property, and that the amendment of the decree by the lower Court was not an amendment of the kind authorized by s. 206 of the Civil Procedure Code.

The application came for hearing before Oldfield and Mahmood, JJ. The former learned Judge was of opinion that the High Court had no power to revise the order of the lower Court in this case, and that the application should therefore be dismissed. Mahmood, J., on the other hand, was of opinion that the Court was competent to revise the order, and that the order was not justified by the provisions of s. 206 of the Civil Procedure Code, and should be set aside as *ultra vires*. The judgments of their Lordships will be found reported at p. 277, *ante*.

Under s. 10 of the Letters Patent for the High Court, N.-W. Provinces, the applicant appealed to the Full Court from the judgment of Oldfield, J., on the ground that the order of the Subordinate Judge was open to revision by the High Court, and that it ought to be revised.

1885

Babu *Dwarka Nath Banarji* for the appellant.Munshi *Sukh Ram* for the respondent.

BAGHUNATH
DAS
v
RAJ KUMAR.

The Full Bench (PETHERAM, C. J., and STRAIGHT, BRODHURST, and TYRRELL, J.J.) concurring with the judgment of MAHMOOD, J., allowed the application with costs to the petitioner.

1885
July 6.

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

JHINGURI TEWARI AND OTHERS (PLAINTIFFS) v. DURGA AND OTHERS
(DEFENDANTS). *

Act XVIII of 1873 (N.-W. P. Rent Act), s. 9—Sale of occupancy-rights with zamindar's consent—Acceptance of rent by zamindar from vendees—Act IX of 1872 (Contract Act), ss. 2, 23—Estoppel—Act I of 1872 (Evidence Act), ss. 115, 116.

Under a deed dated in 1879, the occupancy-tenants of land in a village sold their occupancy-rights, and the zamindars thereupon instituted a suit for a declaration that the sale-deed was invalid under s. 9 of Act XVIII of 1873 (the N.-W. P. Rent Act in force in 1879), and for ejectment of the vendees, who had obtained possession of the land. It was found that the zamindars had consented to the sale to the vendees, and received from them arrears of rent due on the holding by the vendors, and had recognized them as tenants.

Held by the Full Bench that the sale-deed was invalid with reference to the provisions of ss. 2 and 23 of the Contract Act, inasmuch as its object was the transfer of occupancy-rights, which was prohibited by s. 9 of Act XVIII of 1873.

Held also, that s. 115 of the Evidence Act implies that no declaration, act, or omission will amount to an estoppel, unless it has caused the person whom it concerns to alter his position, and to do this he must both believe in the facts stated or suggested by it, and must act upon such belief; that in the present case it could not be said that the vendees were misled by the fact that the zamindars were consenting parties to the sale-deed; that they could not plead ignorance that the deed was unlawful and void; that it had not been shown that they acted upon the zamindars' agreement to take no action, so as to alter their position with reference to the land; and that, under these circumstances, the zamindars were not estopped from maintaining that the sale-deed was invalid.

Held also that the zamindars having accepted the vendees as tenants and taken rent from them, a tenancy was thereby constituted under the Rent Law; that the vendees were therefore not trespassers; and that therefore the question as to ejectment did not fall within the jurisdiction of the Civil Court.

The judgment of OLDFIELD, J. (1) reversed, and that of MAHMOOD, J. (2) affirmed.

* Appeal No. 4 of 1885, under s. 10, Letters Patent.

(1) *Ante*, p. 515. (1) *Ante*, p. 512.