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LACHMAN
v.
THONDI RAM.

pendent in the present appeal, to the Munsif of Jalesar to execute one of these decrees on his behalf; and he further asked that whatever might be realized in such execution should go to the account of the decree which had been transferred, and which was being executed. We are now invited by the learned counsel for the appellant to hold that a subsequent application for execution of the decree, dated the 12th April, 1883, was barred by limitation. He contends that the application of the 18th March, 1882, was not such a proceeding as could keep alive the decree of the 20th February, 1878. I am wholly unable to accept this contention. Under s. 228 of the Code, the decree having been transferred to the Munsif of Jalesar, he had, in executing it, the same powers as if he had himself passed it; and any order passed by him under s. 273 would be made under the first paragraph of that section, because it would be an order directing the proceeds of the former decree to be applied in satisfaction of the latter decree. I cannot see what other course the judgment-creditor could have adopted than that which he actually took. It appears to me that the application of the 18th March, 1882, was perfectly in order and perfectly legal, and I therefore hold that the application of the 12th April, 1883, was not barred by limitation, and the appeal should be dismissed with costs. I may add that I entirely concur with the Chief Justice in the construction which he puts upon the terms used in the third column of art. 179 of the Limitation Act.

Appeal dismissed.

Before Mr. Justice Oldfield and Mr. Justice Mahmood.

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UMRAI AND OTHERS (DEFENDANTS) v. RAM LAL AND OTHERS (PLAINTIFFS).*

Suit for share of compensation awarded for land acquired for public purposes—Suit for money had and received for plaintiff's use—Small Cause Court suit.

A suit was brought by some of the co-sharers in a patti of a mahal in which land had been taken for public purposes under the Land Acquisition Act, against the other co-sharers in the patti for the proportion due to them out of a sum of money which had been awarded as compensation for the acquisition of the land, and which the defendants had received.

* Second Appeal No. 487 of 1884, from a decree of Rai Pandit Jagat Narain, Subordinate Judge of Furukhabad, dated the 12th February, 1884, reversing a decree of Maulvi Muhammad Auwar Husain, Munsif of Kaimganj, dated the 1st September 1885.

Held that the suit was one for money had and received for the plaintiff's use, and was therefore cognizable by a Court of Small Causes. *Sohan v. Mathura Das* (1) followed.

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THE parties to this suit were co-sharers in a patti of a mahal, Certain land in this patti had been taken for public purposes under the Land Acquisition Act. A sum of Rs. 29-1-4 had been awarded as compensation for the acquisition of the land. This sum had been received by the appellant Umrai, one of the co-sharers. The respondents, asserting that they were entitled to receive Rs. 10-14-6 out of the compensation awarded, that sum representing proportionately the extent of their interest in the land, sued the appellants, the other co-sharers in the patti, for the same. In this second appeal in the suit, it was contended by the respondents that a second appeal would not lie, as the suit was one of the nature cognizable in a Mufassal Court of Small Causes.

Lala Lalta Prasad, for the appellants.

Munshi Hanuman Prasad, for the respondents.

The Court (OLDFIELD and MAHMOOD, JJ.) delivered the following judgment :—

OLDFIELD, J.—A preliminary objection has been taken that the appeal will not lie, as the suit is of the nature of a suit cognizable by a Court of Small Causes. We are of opinion that the objection is valid. The suit is for money had and received for the plaintiff's use, and following the decision of this Court in *Sohan v. Mathura Das* (1), we hold such a suit to be cognizable by a Court of Small Causes. The appeal is dismissed with costs.

Appeal dismissed.

FULL BENCH.

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

QUEEN-EMPRESS v. ABDULLAH.

Statement as to cause of death—Cause of death signified in answer to question—Admissibility of evidence as to signs—Act 1 of 1872 (Evidence Act), s. 3 s. 8, Explanations 1, 2, ss. 9, 32 (1)—“Fact”—“Conduct”—“Verbal” statement.

In a trial upon a charge of murder, it appeared that the deceased shortly before her death was questioned by various persons as to the circumstances