

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

JAGAN NATH (PLAINTIFF) v. GANESH AND OTHERS (DEFENDANTS).*

Execution of decree—Civil Procedure Code, sections 278 et seq.—Effect of order on objection under section 278.

1896.
June 2.

An order in favour of one of several decree-holders on an objection under section 278 of the Code of Civil Procedure does not enure for the benefit of other decree-holders who are not parties to the proceedings under section 278. *Badri Prasad v. Muhammad Yusuf* (1) referred to.

ONE Jagan Nath, brought a suit for a declaration that certain property, which he alleged he had purchased from Shugan Chand, was not liable to attachment and sale in execution of a decree held by Jagmandar Das against Shugan Chand. In another proceeding between this plaintiff and a different decree-holder it had been held by an order under section 281 of the Code of Civil Procedure that the present plaintiff was not the vendee of the property claimed. The Court of first instance held that the decision upon the former application, no suit having been brought within limitation to contest that order, was final, and binding on the plaintiff in this present suit, and accordingly dismissed the plaintiff's claim. The plaintiff appealed, and the lower appellate Court affirmed the decree of the first court and dismissed the appeal. The plaintiff appealed to the High Court.

Pandit *Moti Lal* for the appellant.

Pandit *Baldeo Ram Dave* for the respondents

EDGE C. J. AND BLENNERHASSETT, J. The order which is final under section 283 of Act No. XIV of 1882 is final only as between the parties to the application in which the order is made and their representatives. An order in favour of a decree-holder on an objection under section 278 does not enure for the benefit of the other decree-holders who are not parties to the proceedings. The District Judge appears to have thought that a decree-holder who obtains an order in his favour under these sections may be treated as representing all the other decree-holders holding decrees

* Second Appeal No. 476 of 1894, from a decree of H. Bateman, Esq., District Judge of Saharanpur, dated the 8th February 1894, confirming a decree of Babu Sanwal Singh, Subordinate Judge of Saharanpur, dated the 2nd November 1892.

(1) I. L. R., 1 All., 381.

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against the judgment-debtor and seeking to sell the same property. This is not the case of an order having been made in favour of a decree-holder at a time when several other decree-holders had obtained attachment of the same property. We say nothing as to what might be the effect of the order under section 280, section 281 or section 282 in favour of one decree-holder so far as the other decree-holders were concerned who had obtained attachment. This view is consistent with the view taken by the Full Bench of this Court in *Badri Prasad v. Muhammad Yusuf* (1). We set aside the decrees below and remand this case under section 562 of the Code of Civil Procedure to the first Court to be disposed of according to law. Costs of this appeal and in the Court below will abide the result.

Appeal decreed and cause remanded.

1896.
June 3.

Before Mr. Justice Knox and Mr. Justice Blair,
RAM DHAN SINGH (PLAINTIFF) v. KARAN SINGH AND ANOTHER
(DEPENDANTS).*

Civil Procedure Code, section 522—Award—Appeal—Grounds of appeal from a decree passed upon a judgment in accordance with an award.

Held that an appeal would not lie from a decree passed upon a judgment given according to an award merely because there might have been some irregularities in the procedure of the arbitrator, such alleged irregularities having been considered by the Court which passed the decree and having been found by that Court not to be of a such nature as to render the award no award in law. *Jagan Nath v. Mannu Lal* (2), *Bindessuri Pershad Singh v. Jankee Pershad Singh* (3), and *Lachman Das v. Brijpal* (4), referred to.

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

Munshi *Gobind Prasad* for the appellant.

Mr. J. *Simeon* and Munshi *Badri Das* for the respondents.

KNOX and BLAIR, JJ.—This is a first appeal from an order passed by the Judge of Sháhjahánpur whereby he remanded a case for decision by the Court of the Munsif, in which Court that case

* First Appeal No. 5 of 1896, from an order of W. F. Wells, Esq., District Judge of Sháhjahánpur, dated the 21st November 1895.

(1) I. L. R., 1 All., 381.

(2) I. L. R., 16 All., 231.

(3) I. L. R., 16 Calc., 482.

(4) I. L. R., 6 All., 174.