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and collusive application on the part of a person not a tenant, but whom the zamíndár was willing to have as a tenant, were made in a Court of Revenue, and the Court of Revenue in ignorance that there was rival claimant made an order determining that the applicant, who in such case presumably had no title, was a tenant at fixed rates or any other class of tenant, we do not know.

It appears to us that section 95 (a) of Act No XII of 1881, also prohibits the Civil Court from taking cognizance of this suit. It is to be hoped that the Legislature may at an early date by legislation remove the doubts which have hitherto existed as to the jurisdiction of Civil Courts and Courts of Revenue, on questions of this nature, and lay down a clear line of demarcation between the jurisdiction of Civil Courts as Courts of original jurisdiction and Courts of Revenue. We allow this appeal and dismiss the suit with costs in all Courts.

BANERJI, J.—I have considerable hesitation in accepting the view adopted by my learned colleagues in this case; but having regard to the desirability of legislation of the nature suggested in a recent Full Bench case (S. A. No. 543 of 1893: *supra*, p. 59), I do not deem it proper to record a dissentient judgment. I therefore agree in the decree proposed.

Appeal decreed.

APPELLATE CIVIL.

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April 28.

Before Mr. Justice Know, Mr. Justice Blair and Mr. Justice Aikman.

LACHMI NARAIN (DECREE-HOLDER) v. JWALA NATH (JUDGMENT-DEBTOR).
Execution of decree—Decree ambiguous—Reference to pleadings in the suit to ascertain meaning of the decree.

Where a decree is in its terms ambiguous it is competent to the Court executing it to refer to the pleadings in the suit in which such decree was passed to ascertain its precise meaning. *Muhammad Sulaiman v. Muhammad Yar* (1) distinguished. *Jawahir Mal v. Kistur Chand* (2) and *Robinson v. Duleep Singh* (3) referred to.

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

(1) I. L. R., 6 ALL, 30. (2) I. L. R., 13 ALL, 343.

(3) I. L. R., 11 CH. D., 798.

Babu *Durga Charan Banerji* for the appellant.

Munshi *Gobind Prasad* for the respondent.

KNOX, BLAIR and AIKMAN, JJ.—The parties to this second appeal are Lachmi Narain, a decree-holder, who is appellant, and Jwala Nath, judgment-debtor, who is respondent. Lachmi Narain took out proceedings in execution of a decree which he had obtained on the 31st of August 1892. The decree was one which had been confirmed by an appellate Court and also by this Court, before which it came in second appeal. The attempt to obtain execution was resisted by the respondent on the ground that the decree as framed was defective and incapable of execution.

Apparently when the objection was first raised the defects which were alluded to were that no mention was made in the decree of the *mohalla* and of the name of the *kasba* in which the property, the subject-matter of execution, was situate. The decree ran as follows:—“It is ordered and decreed that the plaintiff's claim for demolition of the *sehdari* with the walls built by the defendant on the *chabuttra*, with the exception of relief (b), in so far as it relates to the joint property, be decreed; that a perpetual injunction be issued to defendant prohibiting him from making interference with plaintiff in respect of the land shown in ‘*Multani*’ colour; that the plaintiff shall get costs in proportion to the claim for demolition of the *sehdari* and *chabuttra*, and the defendant shall not get any costs, and that the rest of the claim be dismissed.

(Subject of decree.)

“Demolition of the *sehdari* with the walls built by defendant on the *chabuttra*. Issue of a perpetual injunction prohibiting the defendant from interfering with plaintiff in respect of the land measuring 16 sq. yards, *i.e.*, 2½ yards in breadth east to west and 6 yards 8 girahs north to south in length, adjacent to the wall of the house of Deoki Prasad, shown in the map in ‘*Multani*’ colour. The plaintiff will continue as before to have passage and allow the water of his houses to flow as before on the land measuring 20 sq. yards 10 girahs, *i.e.*, 3 yards 12 girahs in breadth east to

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west and 5 yards 8 girahs in length north to south. The rest of the claim dismissed."

The Munsif before whom the objections were raised disallowed them. The learned Judge in appeal held that the decree in its present form was vague and uncertain and incapable of enforcement.

In second appeal before us it is urged that the decree is one which does admit of execution, and that if there is any defect it can at once be removed by reference to the pleadings.

In support of the contention that in a case of this nature the Court which had to execute the decree is not precluded from referring to the record, the case of *Jawahir Mal v. Kistur Chand* (1) was cited. In that case it was held by this Court that, although the decree drawn up was not strictly in form, still from the record it could be ascertained what the amount of the decree was, and the informality in the decree, which was the result of the manner in which it was drawn up in the office of the lower Court, should not be allowed by a Court of justice, equity and good conscience to stand in the way of the decree-holder seeking execution of the decree made in his favour.

On the other hand, it was contended by Mr. *Gobind Prasad*, who appeared for the respondent, on the authority of *Muhammad Sulaiman v. Muhammad Yar* (2), that a Court is not justified in reading into a decree matters which are not set out in the decree itself. To use the words of the learned vakil, this case was an authority for holding that a Court executing a decree must not look beyond the decree. He also referred us to *Janki Prasad v. Baldeo Narain* (3), and to the opinions of the dissenting minority in the Full Bench that decided the case of *Debi Charan v. Pirblu Din Ram* (4).

The case of *Muhammad Sulaiman v. Muhammad Yar* is a case which probably pushed to the extreme the view set out therein, but even as it stands it does not bear out the contention

(1) I. L. R., 13 All., 343.

(2) I. L. R., 6 All., 30.

(3) I. L. R., 3 All., 216.

(4) I. L. R., 8 All., 388.

raised by the respondent. The Court in that case refused to read into a decree details in a separate list of villages filed with the plaint by the plaintiff's pleader on the ground that the list formed no part of the plaint. It did not, however, refuse to look at the plaint itself, and apparently if the plaint had contained the necessary details, it would have been prepared to read them into the decree. The case of *Janki Prasad v. Baldeo Narain* has no application whatever to the case before us. We are most in favour of the principle laid down in *Jawahir Mal v. Kistur Chand* (1). The principle is one not confined to Courts in India alone, but is of a more general application, as we find from the case of *Robinson v. Dulcep Singh* (2). At page 813, James, J., lays down that, in order to determine what a decree really decides, it is essential to see what were the rights which were in dispute between the parties and which were alleged by them. This is a distinct authority for reference to the pleadings. It must not, however, be assumed from our judgment that we look with any favour upon Courts drawing up imperfect decrees. A decree should be so drawn up as to need no interpretation other than may be gathered from the language of the decree itself; and there should be no need of reference to any document or paper whatsoever, unless such document or paper is attached to the decree and forms part of it. While, on the one hand, it is true that the decree should be drawn up in the manner above indicated, it is also just that litigants who have been successful should not be deprived of the fruits of their success owing to carelessness on the part of the Court or officer charged with the preparation of decrees.

We decree the appeal, set aside the decree of the lower appellate Court, and restore that of the Court of first instance. The appellant will get his costs in this Court and in the lower appellate Court.

Appeal decreed.

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