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INDARJIT
v.
LAL CHAND.

Bakhsli v. Durjan (1). In the case last mentioned the suit was in respect of a bond payable by instalments, and the question was whether evidence was admissible to prove that at the time of the giving of the bond it was agreed to let the creditor have possession in lieu of instalments. It was held that such evidence was admissible, that the contract alleged did not detract from, add to, or vary the original contract, but only provided for the means by which the instalments were to be paid. Similarly in this case the agreement alleged by the plaintiff did not contradict, vary or add to the terms of the original contract, but only provided for the mode in which the amount of consideration agreed upon in the sale-deed was to be paid. We are of opinion that the Court below rightly admitted the evidence tendered by the plaintiff to prove the allegations made by him in the 4th and 5th paragraphs of his plaint.

[The judgment then went on to discuss facts of the case; but the remaining portion is not material to the purposes of this report.—Ed.]

APPELLATE CIVIL.

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

PARSIDH RAI AND OTHERS (PLAINTIFFS) v. RAJI NAIN RAI AND OTHERS (DEFENDANTS).*

Act No. XIX of 1873 (North-Western Provinces Land Revenue Act) sections 222 to 231—Arbitration—Award made by one arbitrator only, effect of such award and decision thereon.

The provisions of ss. 222 to 231 of Act No. XIX of 1873 contemplate that the award therein dealt with should be an award made by more arbitrators than one. Where therefore a Settlement Officer had delivered a decision under s. 230 upon what purported to be an award by one arbitrator only, it was held that such so-called award and the decision thereon of the Settlement Officer would not prevent the matters dealt with therein being reopened in a civil suit. *Jatan Singh v. Mahadeo Singh* (2) distinguished.

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

* Second Appeal No. 554 of 1893, from a decree of Pandit Raj Nath Sabib, Subordinate Judge of Gházipur, dated the 11th November 1892, reversing a decree of Rahu Sris Chandra Bose, Munsif of Gházipur, dated the 30th June 1892.

(1) L. L. R., 9 All., 392.

(2) Weekly Notes, 1886, p. 180.

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Mr. T. Conlan, Pandit Sundar Lal and Munshi Gobind Prasad for the appellants.

Munshi Ram Prasad for the respondents.

EDGE, C. J., and BURKITT, J.—This was a suit for a declaration of title, and for possession, in the event of the plaintiffs being found not to be in possession. One of the grounds upon which the suit was resisted was that the matter had been concluded by the decision of the Settlement Officer on an award, and that section 231 of Act No. XIX of 1873 applied. The Munsif found for the plaintiffs, finding that there had been no award. The defendants' appeal was heard by the Subordinate Judge, who decided that there had been a reference and an award and a decision thereupon to which section 231 of Act No. XIX of 1873 applied. The plaintiffs have appealed.

We were pressed in appeal with a decision of this Court in the case of *Jatan Singh v. Mahadeo Singh* (1), and it was contended that according to that decision there could be a good reference under section 222 of Act No. XIX of 1873 to one arbitrator alone. The learned Judges in that case do not appear to have decided that precise point. They held that there was nothing in section 222 to prohibit a reference to one arbitrator. Whether they considered that, in that case, the reference was good as being a private reference by consent of parties or not we cannot say. In the present case the only question before us is :—Was the decision of the Settlement Officer on the award of 1884 (assuming that the document was an award) a decision within the meaning of section 231? It is not suggested that there was any reference to two or more arbitrators, or any award of two or more arbitrators, on which the Settlement Officer could decide under section 230. Reading sections 222 to 230, we are of opinion that the reference contemplated by that group of sections, and on which the decision referred to in section 231 could be made is a reference to certainly more than one arbitrator. We are bound to hold that if this report of 1884 was an award, it was not an award on which the Settlement Officer could make a decision

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under section 230 of Act No. XIX of 1873, and consequently that section 231 of that Act did not bar this suit.

We set aside the decree of the lower appellate Court, so far as it affects the interests of parties to this appeal, who have been served with notice and who are alive; and we remand this case under section 562 of the Code of Civil Procedure to the lower appellate Court for trial upon the merits. The decree below will stand so far as the representatives of deceased parties are concerned where such representatives are not upon this record. Costs will abide the result.

Appeal decreed.

FULL BENCH.

Before Sir John Edge, Kt., Chief Justice, Mr. Justice Know, Mr. Justice Blair, Mr. Justice Banerji, Mr. Justice Burkitt and Mr. Justice Aikman.

IN THE MATTER OF RAJENDRO NATH MUKERJI.

Letters Patent, section 8—Conviction of vakil for criminal offence—Vakil called upon to show cause why he should not be struck off the roll—Argument not allowed to show that conviction was wrong.

A vakil practising in the High Court was convicted by a Court of Session of the offence punishable under section 471 of the Indian Penal Code, and the conviction was affirmed by the High Court on appeal. The vakil was subsequently called upon to show cause why he should not in consequence of such conviction be struck off the roll of vakils of the Court. On appearance in answer to this rule it was *held* that the vakil was not entitled to question the propriety in law or in fact of the conviction, but that it was open to him to show, if he could, that his conduct in the matter in respect of which he had been convicted was not such as to render him an unfit person to be retained on the roll of vakils of the Court.

THIS was a proceeding under section 8 of the Letters Patent of the High Court of Judicature for the North-Western Provinces. One Rajendro Nath Mukerji, a vakil practising in the High Court, had been convicted by the Sessions Judge of Allahabad of the offence punishable under section 471 of the Indian Penal Code and sentenced to three years' rigorous imprisonment. He appealed to the High Court, where his appeal was heard by a Division Bench and dismissed, the conviction being affirmed, but the sentence reduced to two years' rigorous imprisonment.

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