

aware that attempts are frequently made to evade the effect of section 7, and we should be opening a door through which it would be possible for such evasions to become general in these Provinces. All that would be necessary, if the ruling of the Board of Revenue is correct, to prevent the arising of exproprietary rights would be for a purchaser on a sale from a zamindár to leave with the zamindár the minutest fraction of the proprietary rights which he had. He would still be a proprietor, no matter how small the fraction was, and, according to the Board of Revenue, section 7 would not apply, although the proportion of *sír* represented by the fractional interest remaining in the zamindár might be represented by the one-hundredth part of a bigha. Further, according to the Board of Revenue, that one-hundredth part of a bigha would be the only scrap of land in the village of which the unfortunate zamindár could ever become an ex-proprietary tenant. That could not have been the protection which the Legislature intended to afford by section 7. The first Court dismissed the suit. The lower appellate Court dismissed the appeal. We dismiss this appeal and confirm the decrees below with costs.

*Appeal dismissed.*

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

DEBI PRASAD (PLAINTIFF) v. BALDEO (DEFENDANT).

*Civil Procedure Code, section 276—Execution of decrees—Attachment—Lease of property under attachment.*

*Held* that a *zar-i-peshgi* lease and an ordinary agricultural lease made by a judgment-debtor of property under attachment were alienations which were void by reason of the prohibition contained in section 276 of the Code of Civil Procedure.

The plaintiff in this case sued for possession of immovable property and cancellation of two leases of the said property. His case was that he was purchaser of certain property, including that in suit, at an auction sale under decrees held by one Gobardan and by others against one Balbhaddar Singh, and had obtained confirmation of the sale and formal delivery of the property sold; but

Second appeal No. 1174 of 1893, from a decree of Babu Baijnath, Subordinate Judge of Agra, dated the 28th July 1893, reversing a decree of Babu Hari Mohan Banerji, Munsif of Agra, dated the 6th March 1893.

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that the judgment-debtor had, while the said property was under attachment, leased certain portions of it by two leases dated the 28th of April 1890, and the 16th of July 1890, to the defendant Baldeo.

The defendant Baldeo resisted the suit principally on the ground that the leases were executed in good faith, and not whilst the property comprised therein was under attachment.

The Court of first instance (Munsif of Agra) found that the two leases in question were fraudulent transactions and executed whilst the property was under attachment in contravention of section 276 of the Code of Civil Procedure, and that the plaintiff was entitled to the possession and *mesne* profits claimed by him. It accordingly decreed the plaintiff's claim.

The defendant Baldeo appealed.

The lower appellate Court (Subordinate Judge of Agra), although agreeing with the finding of fact of the Court below that the leases were executed during the subsistence of the attachment, held that the leases were not void, but voidable only at the instance of the decree-holders to defraud whom they were executed, and as one of these decree-holders was said to be Baldeo, the defendant himself, and the other, one Paras Ram, had raised no objection, it decreed the appeal and dismissed the plaintiff's suit. The plaintiff thereon appealed to the High Court.

Pandit *Bishambar Nath*, Pandit *Sundar Lal* and Pandit *Moti Lal* for the appellants.

Munshi *Ram Prasad* for the respondent.

EDGE, C. J., and BURKITT, J.—Whilst property was under attachment the judgment-debtor granted two leases of it. The plaintiff in this suit purchased that property at an auction sale held in execution of the decrees under which the property was under attachment. Section 276 of the Code of Civil Procedure is not limited to cases in which the alienation is unfavorable to the judgment-creditor. It prohibits an alienation altogether. There were two leases granted in this case by the judgment-debtor. The one was a *zar-i-peshgi* and the other an ordinary agricultural lease.

They were private alienations of the property attached. We declare that by reason of section 276 of the Code of Civil Procedure the two leases above referred to were void. We allow the appeal with costs in all Courts, and, setting aside the decree of the Court below, we restore the decree of the first Court.

*Appeal decreed.*

*Before Mr. Justice Banerji and Mr. Justice Aikman.*

JINO (DEFENDANT) v. MANON (PLAINTIFF).\*

*Pleadings—Suit, frame of—Plaint asking for reliefs inconsistent with each other;—Plaint so framed no ground for dismissing suit.*

*Held* that the fact that a plaintiff claims in his plaint two alternative reliefs which are inconsistent with each other is no ground in itself for the dismissal of the suit. *Iyappa v Ramalakshamma* (1) dissented from; *Mahomed Buksh Khan v. Husseni Bibi* (2) referred to.

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

Mr. T. Conlan, Mr. Muhammad Raoof and Pandit Sundar Lal for the appellant.

The Hon'ble Mr. Colvin, Munshi Ram Prasad and Babu Durga Charan Banerji for the respondent.

BANERJI and AIKMAN, JJ.—The suit out of which this appeal has arisen was brought by the respondent, Musammat Manon, against the appellant, Musammat Jino, and three other defendants. The plaintiff's suit was dismissed against these other defendants and decreed against Musammat Jino, who now appeals.

The object of the suit was to avoid a bond, bearing date the 21st of July 1889, and purporting to have been executed by Musammat Manon in favor of Musammat Jino. The avoidance of the bond was asked for on two grounds: First, that it was a forgery and never was executed by the plaintiff, and next (in the event of the Court not finding the bond to be a forgery) that it was void for want of consideration.

First Appeal No. 130 of 1893, from a decree of Babu Anwar Singh, Subordinate Judge of Saharanpur, dated the 30th March 1893.

(1) I. L. R., 18 Mad., 549.

(2) L. R., 15 I. A., 86.

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