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MAHABIR  
PRASAD  
v.  
SITAI SINGH.

held in the case referred to above. I would allow the appeal, and, setting aside the decree of the lower appellate Court, restore that of the Court of first instance with costs here and in the lower appellate Court.

AIKMAN, J.—The question raised by this appeal was considered by me in *Mulchand v. Mukta Pal Singh* (2). For the reasons given in my judgment in that case I concur with my brother Banerji in thinking that this appeal should be allowed and in the order proposed by him.

*Appeal decreed.*

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June 7.

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

WAZIR SINGH (DEPENDANT) v. THAKUR KISHORI RAWANJI THROUGH SHIB GOPAL AND ANOTHER (PLAINTIFFS).\*

*Act No. XII of 1881 (N.-W. P. Rent Act) section 185—Civil Procedure Code section 623—Review of judgment—Section 623 of the Code of Civil Procedure not applicable to cases under the Rent Act.*

Section 623 and the following sections of the Code of Civil Procedure which deal with reviews of judgments have no application to suits and proceedings under the N.-W. P. Rent Act, 1881.

Where section 185 of Act No. XII of 1881 applies, it is only in cases where there is no right of appeal that a review can be granted, and that only on the special ground provided for in the Act itself.

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

*Babu Satya Chandar Mukerji*, for the appellant.

The respondents were not represented.

BANERJI and AIKMAN, JJ.—This was a suit for profits by a co-sharer against the lambardar under cl. (b) of section 93 of Act No. XII of 1881. The claim was to recover Rs. 104-12-6. On the 29th of May, 1893, the Court of first instance made a decree in favour of the plaintiffs for Rs. 15-12-5. The plaintiff did not appeal from that decree, although an appeal lay under section 189

\* Second Appeal No. 584 of 1895 from a decree of H. G. Pearse, Esq., C.S., District Judge of Agra, dated the 19th February 1895, confirming a decree of Maushi Narain Singh, Assistant Collector of Muttra, dated the 29th September 1893.

of the Act. He, however, applied on the 2nd of July 1893, for a review of the judgment of the Court of first instance under section 623 of the Code of Civil Procedure. That Court granted the application, modified its decree and made a decree in favour of the plaintiffs for Rs. 37-2-9. From this decree the defendant appealed to the District Judge, who affirmed the decree passed on the review. The defendant has preferred this second appeal; and he urges in this Court, as he did in the Court below, that section 623 did not apply, and that the Court of first instance was not competent to review its judgment. In our opinion this plea must prevail. The provisions of the Code of Civil Procedure no doubt apply to proceedings under the Rent Act when the Act itself is silent; but we find that in the matter of review of judgment the Act contains special provisions. Section 185 provides that in a suit in which the judgment of the Collector of the District is final, he may order the re-hearing of a suit upon the ground of the discovery of new evidence and on no other ground. That section differs from section 623 of the Code of Civil Procedure in two respects. It authorizes the Court to grant a review of judgment only in a suit in which the judgment is final, and it limits the ground for review to that of the discovery of new evidence. This, in our opinion, is a clear indication of the intention of the Legislature that the provisions of section 623 should not apply to a suit in a Court of Revenue. It is also clear from the provisions of sections 201A and 201B, that in the case of orders passed upon applications a review of judgment is allowable only when the orders are final and no appeal lies from them. A comparison of these sections with section 185 confirms us in our opinion that what the Legislature intended was that where there was a right of appeal there should be no right to apply for a review of judgment. It is only in cases where there is no right of appeal that a review can be granted, and that only on the special ground provided for in the Act itself. The provisions of the sections quoted show that in the matter of review the Rent Act is not silent; consequently section 623 and the following sections of the Code of Civil Procedure which deal with reviews

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of judgments have no application to suits and proceedings under the Bent Act. The Assistant Collector was therefore wrong in reviewing his judgment and in modifying the decree which he made on the 29th of May 1893. The plaintiffs ought to have sought their remedy by appeal. We set aside the decrees below and restore the decree of the Assistant Collector, dated the 29th of May 1893. The appellant will get the costs incurred by him here and in the Courts below subsequent to the 29th of May 1893.

*Appeal decreed.*

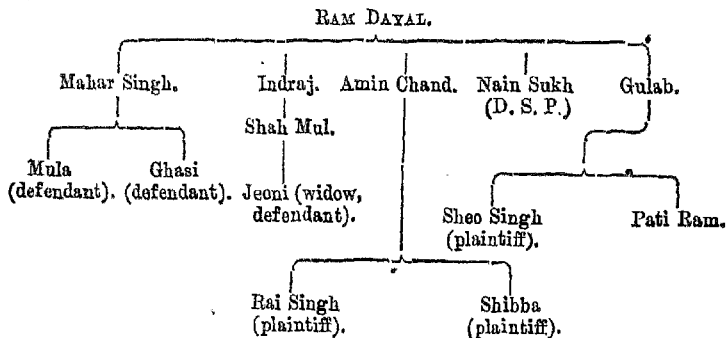
*Before Mr. Justice Banerji and Mr. Justice Aikman.*

SHEO SINGH AND OTHERS (PLAINTIFFS) v. JEONI AND OTHERS  
(DEFENDANTS).\*

*Act No. XV of 1877 (Indian Limitation Act), Sch. ii, Art. 125—Limitation—Alienation—Decree in a collusive suit against a Hindu widow.*

*Held* that the action of a Hindu widow in causing a collusive suit to be brought against her and confessing judgment therein whereby the plaintiff in that suit got a decree for possession of property of which the widow was in possession holding a Hindu widow's estate, amounted to an "alienation" of such property within the meaning of article 125 of the second schedule of Act No. XV of 1877.

THIS was a suit for a declaration that an alienation made by a Hindu widow of property which had been of her husband in his lifetime would not affect the interests of the plaintiffs as reversioners. The relationship of the parties *inter se* is shown by the subjoined genealogical table:—



\* Second Appeal No. 506 of 1895 from a decree of H. Bateman, Esq., District Judge of Saharanpur, dated the 1st February, 1895, confirming a decree of Manvi Sháh Ahmad-ullah, Subordinate Judge of Saharanpur, dated the 16th April 1894.

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