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LACHMIN
KUAR
v.
DEBI
PRASAD.

Pauliem Valoo Chetty v. Pauliem Sooryah Chetty (1), as being a "somewhat startling proposition of law," and their Lordships expressed their disapproval of some cases in the Madras High Court which went that far. All the cases on the point have been very fully considered and discussed by the Bombay High Court in the case of *Krishnaji Mahadev v. Moro Mahadev* (2), in which it was held with respect to a person in much the same position as Sheo Narain that as he had received only a rudimentary education from the joint family funds his earnings were self-acquired, as also was any property purchased with those earnings. The fruits of an ordinary elementary education could not, it was held, be regarded as the "gains of science" acquired at the expense of ancestral wealth.

Having fully considered the rule laid down in the cases cited above, we find ourselves entirely in accordance with it. Following that rule, we hold in the present case that the property in dispute was the self-acquired property of Sheo Narain. It follows, therefore, that both in the hands of Nawal and of Khurshed it was self-acquired property and liable as such to be seized in satisfaction of the respondent's decree. We dismiss this appeal with costs to be paid out of the proceeds of the property in dispute.

Appeal dismissed.

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May 19.

Before Mr. Justice Burkitt.

BANSIDHAR (PLAINTIFF) v. DIP SINGH AND OTHERS (DEFENDANTS).
Lambardar and co-sharer--Powers of lambardar to deal with co-parcenary lands--Lease of such lands for ten years at an inadequate rent.

Held, that a lambardar has no general power to grant any lease of co-parcenary land beyond such as the circumstances of the particular year or the particular season may require. *Jagan Nath v. Hardyal* (3) followed.

In this case the plaintiff was owner of almost the whole of two mahals known as Bangar and Khadar in mauza Chitaura

* Second Appeal No. 344 of 1897 from a decree of Babu Prag Das, Additional Subordinate Judge of Meerut, dated the 26th February 1897, confirming a decree of Thakur Udit Narayan Sinha, Additional Munsif of Meerut, dated the 23rd December 1895.

(1) I. L. R., 1 Mad., 252.

(2) I. L. R., 15 Bom., 32.

(3) Weekly Notes, 1897, p. 207.

Mohiuddinpur. The small residue was owned by the defendants, one of whom, Puran Singh, was the lambardar. Owing to disagreements between the plaintiff and the lambardar the plaintiff applied for partition of his shares in these mahals. Puran Singh filed objections, which were disallowed in respect of mahal Bangar, but allowed in the case of mahal Khadar. Subsequently Puran Singh executed a lease for 10 years of the munj grass produce of both mahals at an annual rent of Rs. 12. After the partition proceedings had been concluded, all but the actual putting of the parties into possession of the shares allotted to them, the plaintiff filed his suit for cancellation of the lease given by Puran Singh. The Court of first instance (Additional Munsif of Meerut) dismissed the suit. The plaintiff appealed. The lower appellate Court (Additional Subordinate Judge of Meerut) dismissed the appeal. The plaintiff appealed to the High Court.

Pandit *Sundar Lal*, for the appellant.

Pandit *Moti Lal*, for the respondents.

BURKITT, J.—In this case it appears that one Puran Singh, the lambardar of a village which was under partition, and to the partition of which his objections had been disallowed on the 8th of August, 1894, granted on the 24th of December of the same year, a lease, for a period of no less than ten years, of more than 400 bighas of land producing valuable munj grass, at the utterly inadequate rent of Rs. 12 per annum. The Subordinate Judge says, and perhaps with truth, that no fraud was proved; but in my opinion we have only to look at the lease itself to see that it was given by a disappointed litigant, whose power as lambardar was soon about to cease, with the intention of damnifying his successful opponent in the partition proceedings. For that reason alone I would direct the lease to be set aside; but, further, there is distinct authority in this case, in the case of *Jagan Nath v. Hardyal* (1), in which it was distinctly ruled that a lambardar has no general power to grant any lease of co-parcenary land beyond such as the circumstances of the particular year or

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particular season may require. That no doubt was a case of a perpetual lease, but the reasons for the decision apply with equal strength to the ten years' lease in the present case. I fully concur in the rule of law laid down in the case just cited, and, following the principle contained in it, I set aside the decrees of the two lower Courts, and, allowing this appeal, I give a decree in favour of the plaintiff appellant. I cancel the lease dated the 24th of December, 1894, so far as it concerns an area of 144 bighas 7 biswas and 13 biswansis pukhta out of mahal Bangar of Chitaura Mohindinpur, and I direct that possession of that area be given to the plaintiff appellant by the dispossession of the defendant lessee. The plaintiff appellant will have his costs in this Court.

Appeal decreed.

REVISIONAL CRIMINAL.

Before Mr. Justice Aikman.

QUEEN-EMPRESS v. NIHAL CHAND.*

Act No. 1 of 1879 (Indian Stamp Act), section 61—Stamp—Promissory note—Person receiving an under-stamped promissory note not liable under section 61.

Under section 61 of Act No. I of 1879 the "person accepting" a promissory note not duly stamped is the person who executes such note as acceptor, not a person who merely receives the note. The mere receiver of an unstamped or insufficiently stamped promissory note is not as such liable to any penalty under this section either as principal or abettor. *Queen v. Gulam Husain Sahib* (1), *The Queen v. Nadi Chand Poddar* (2), *Empress v. Janki* (3) and *Empress v. Gopal Das* (4) referred to.

THIS was a reference made by the Sessions Judge of Saharanpur under section 438 of the Code of Civil Procedure. The facts of the case sufficiently appear from the judgment of the Court.

AIKMAN, J.—This is a case reported for the orders of this Court by the learned Sessions Judge of Saharanpur. It appears

* Criminal Revision No. 227 of 1898.

(1) I. L. R., 7 Mad., 71.

(2) 24 W. R., C. R., 1.

(3) I. L. R., 7 Bom., 82.

(4) Weekly Notes, 1883, p. 145.

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May 26.