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INAYAT
HUSEN
v.
ALI HUSEN.

In the case of such families slight evidence of enjoyment of income arising from the property is sufficient *prima facie* proof of possession. In the suit before us the evidence adduced by the plaintiff hardly amounts to such proof.

[The rest of the judgment in this case deals mainly with the evidence in the case and therefore is not reported—Ed.]

REVISIONAL CRIMINAL.

1897
December 18.

Before Mr. Justice Blair.

QUEEN-EMPRESS v. LALTA PRASAD.*

*Act No. XI of 1890 (Prevention of Cruelty to Animals Act) section 6(1)
—Meaning of the word "permit."*

Held that the word "permits," as used in section 6, clause (1), of Act No. XI of 1890, implies knowledge of that which is permitted.

THIS was a reference under section 438 of the Code of Criminal Procedure made to the High Court by the Officiating District Judge of Saharanpur on an application for revision of an order passed by the Joint Magistrate.

The facts of the case are thus stated in the referring order:—
 "The applicant is a resident of the district of Farrukhabad, and
 "is the sole proprietor of a Company carrying goods and passengers between Saharanpur and Rajpur. He carries on business under the style of Lalta Prasad & Co. The local
 "manager of the business is Lalta Prasad's nephew Jauki Das.
 "It is admitted that he has complete control of the management,
 "and that he has various other local managers, clerks and drivers
 "under him. Applicant was prosecuted under section 6 (1) of
 "Act XI of 1890 (The Prevention of Cruelty to Animals Act),
 "and fined Rs. 100, for permitting to be driven in a tonga a
 "horse which was suffering from severe harness galls and excessive weakness. The only point taken by Mr. Vansittart
 "for petitioner is that Lalta Prasad cannot be said to have
 "'permitted' the unlawful use of the animal. It is admitted
 "that Lalta Prasad is a respectable man, that he usually resides at

* Criminal Revision No. 552 of 1897.

“Farrukhabad and rarely comes here, and that he was at Farrukhabad when the alleged cruelty was committed.”

Under these circumstances the Sessions Judge was of opinion that the applicant could not be said to have “permitted” the alleged cruelty within the meaning of the Act.

Mr. *A. E. Ryves*, in support of the reference.

The Government Advocate (Mr. *E. Chamier*), for the Crown.

BLAIR J.—This is a case which has been submitted to this Court under section 438 of the Code of Criminal Procedure, with the recommendation that the order of conviction should be quashed. The person convicted is unquestionably a resident of Farrukhabad. He made it his business to let out horses and ponies on hire, and a certain pony, his property, was being used, and cruelly used, on the high road between Saharanpur and Rajpur. The driver who committed the ill-usage was his servant; the nature of the ill-usage was this, that the pony was driven when it was, through collar galls, quite unfit to be so driven. The question is whether the owner “permitted” such illegal employment of the animal. The word “permit” has a well known meaning, and, unless under very exceptional circumstances, implies knowledge of that which is permitted. Such knowledge, it is not suggested, was in the possession of the owner of the pony. Mr. *Chamier* has been instructed to call my attention to two cases in the English Reports, in which a larger meaning has been given to the word “permit” than that which it bears in common parlance. One case is reported in 13 Law Journal, C. P., page 319; the other is reported in Law Reports 12 Q. B., page 639. In one case the person convicted was the owner of a licensed Music Hall. The other was a case of a Railway Company. I do not think the special circumstances existing in those cases have any parallel in this, and I am not aware of any case arising in an Indian Court in which the word “permit” has been interpreted, in a quasi-criminal case, in any meaning more extensive than that which it obtains in common parlance. No doubt the decision of this case adversely to the conviction will

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materially limit the usefulness of the Act. That is a conclusion which I cannot obviate if the plain wording of the Act seems to me to make for the more limited construction. I therefore reluctantly set aside this conviction and order the fine, if paid, to be at once returned.

APPELLATE CIVIL

Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Burkitt.
TIKAM SINGH AND OTHERS (DEFENDANTS) v. THAKUR KISHORE
RAMANJI MAHARAJ, THROUGH SHEO GOPAL AND OTHERS
(PLAINTIFFS).*

Civil Procedure Code, sections 32 and 108—Powers conferred by section 32 exercisable even after an order has been passed under section 108.

Held that the powers conferred by section 32 of the Code of Civil Procedure in respect of the addition of parties were exercisable even after a suit had been reinstated on an application under section 108 of the Code made by one of the defendants who had not been served with notice of the suit.

IN this case a suit for sale under the Transfer of Property Act was brought by the trustees of a certain temple against Magau Behari Lal, Tikam Singh his son, and other defendants. In that suit a decree for sale was made. Subsequently Tikam Singh, who had not been served with notice of the suit, applied under section 108 of the Code of Civil Procedure to have the decree set aside as against him, and it was accordingly set aside. After the suit as against Tikam Singh had been reinstated on the file of pending suits, the plaintiffs made an application under section 32 of the Code of Civil Procedure praying that a minor brother of Tikam Singh, and Tikam Singh's two minor sons should be brought upon the record as defendants, they being all members of the same joint Hindu family and parties interested within the meaning of section 85 of the Transfer of Property Act. This application was granted and the names of the minors were put on the record of the suit. Against this order Tikam Singh appealed to the High Court.

* First Appeal from Order No. 112 of 1896 from an order of Maulvi Syed Muhammad Seraj-ud-din, Subordinate Judge of Agra, dated the 18th November 1896.