

after paragraph (e), namely, "granting such further or other relief as the nature of the case may require," must be read with what has preceded as referring to further relief to which the party may be entitled, which arises out of the existence of the trust in respect of which the suit has been brought. The words cannot be interpreted as including the relief which is sought in this case, which is a declaration merely that property has been dedicated as waqf. Inasmuch as we take this view of the section, it is unnecessary for us to discuss the several decisions to which we have been referred, some of which appear to be conflicting. They are not applicable, in our opinion, to the facts of the present case. The appeal, therefore, must be allowed, the decree of the Subordinate Judge set aside, and the suit remanded to the Subordinate Judge under the provisions of section 562, with a direction that it be replaced on the file of pending suits, and decided upon the merits. The costs of this appeal and heretofore incurred will abide the event.

1903

JAMAL-
UDDIN
v.
MUJTABA
HUSAIN.

Appeal decreed and cause remanded.

Before Mr. Justice Blair and Mr. Justice Banerji.

MAHARAJA OF REWAH (PLAINTIFF) v. SWAMI SARAN AND ANOTHER
(DEFENDANT).*

1903
May 13.

Civil Procedure Code, section 432—Suit by Ruling Chief—Applicability of section 432 to suits in Revenue Courts—Plaint—Signature of plaintiff by an unauthorized agent who subsequently becomes empowered to sign.

Held that section 432 of the Code of Civil Procedure applies to suits filed in a Court of Revenue under the provisions of Act No. XII of 1881.

Held also that where the plaintiff in a suit filed in a Court of Revenue on behalf of a Ruling Chief was signed by a person who at the time of signing had not been specially appointed by Government for such purpose under section 432 of the Code of Civil Procedure, but was so appointed before the period of limitation in respect of such suit had expired, the plaintiff was a valid plaintiff for all purposes. *Basdeo v. John Smidt* (1) referred to. *Marghub Ahmad v. Nihal Ahmad* (2) distinguished.

* Second Appeal No. 436 of 1901, from a decree of Nawab Muhammad Ishaq Khan Sahib, District Judge of Mirzapur, dated the 12th of February 1901, reversing a decree of Babu Radha Charan, Assistant Collector, 1st Class, of Mirzapur, dated the 29th of September 1903.

(1) (1899) I. L. R., 22 All., 55. (2) *Weekly Notes, 1899, p. 55.

1908

MAHARAJA
OF REWAHv.
SWAMI
SARAN.

THE suit out of which this appeal arose was filed on behalf of the Maharaja of Rewah on the 16th of June 1899, in the Court of the Assistant Collector of Mirzapur, for recovery of rent due upon a lease executed in favour of the plaintiff by the predecessor in title of the defendants. The cause of action for the suit is stated in the plaint to have arisen on the 14th of June 1897, the plaint was duly presented by a mukhtar of the Court. It was verified by one Abdul Rahman on behalf of the Maharaja. As a matter of fact on the date on which the plaint was filed Abdul Rahman had not been appointed by the Government as the recognized agent of the Maharaja plaintiff. His appointment was made on the 6th of April 1900. Amongst the various pleas raised by the defendants they put forward the contention that the verification and signature on the plaint, were "wrong and contrary to law". The Court of first instance returned the plaint for amendment, and subsequently, after it had been amended made a decree in favour of the plaintiff. On appeal by the defendants the lower appellate Court [District Judge of Mirzapur] set aside the decree of the first Court, being of opinion that section 432 of the Code of Civil Procedure did not apply to a suit brought by a Ruling Chief in a Court in British India in respect of his private property, the plaintiff thereupon appealed to the High Court.

Pandit *Sundar Lal* and *Munshi Gokul Prasad*, for the appellant.

Mr. S. Sinha and *Babu Jogindro Nath Chaudhri*, for the respondents.

BLAIR and BANERJI, JJ.—This appeal arises out of a suit brought on behalf of the Maharaja of Rewah in the Court of the Assistant Collector of Mirzapur for recovery of rent due upon a lease executed in his favour by the predecessor in title of the defendants. The cause of action for the suit is stated in the plaint to have arisen on the 14th of June 1897. The suit was filed on the 16th of June 1899. The plaint was duly presented by a mukhtar of the Court. It was verified by one Abdul Rahman. Amongst the various pleas raised by the defendants, they put forward the contention that the verification and signature on the plaint were "wrong and contrary to law". The

Court of first instance returned the *plaint* for amendment, and subsequently, after it had been amended, the Court made a decree in favour of the plaintiff. The lower appellate Court has set aside that decree. Hence this appeal. The learned Judge of the lower appellate Court is of opinion that section 432 of the Code of Civil Procedure is not applicable to a suit brought by a Ruling Chief in a Court in British India in respect of his private property. We cannot agree with this opinion. The present suit, it is true, was brought under the Rent Act of 1881, but that Act contains no provisions about suits by Ruling Chiefs instituted in Courts in British India. Consequently the provisions of section 432 of the Code of Civil Procedure would be applicable to a suit brought in a Court of Revenue; so that if the suit was prosecuted by a person who was appointed a recognized agent under that section, it would be a suit which could be validly brought and prosecuted on behalf of the Ruling Chief. In this case it appears that on the date on which the *plaint* was filed, Abdul Rahman had not been appointed by the Government as the recognized agent of the Maharaja plaintiff. His appointment was made on the 16th of April 1900. The cause of action having arisen on the 14th of June 1897, the claim was not time-barred on the date of the appointment of Abdul Rahman. The learned Judge has held the claim to be barred, on the ground that Abdul Rahman signed the *plaint* and the verification under it upon the 28th of July 1900; that consequently the *plaint* became a valid *plaint* on that date, and that the period of limitation prescribed for the suit had expired on that date. With this view we are unable to agree. We cannot accede to the contention of the learned advocate for the respondent that there was no valid *plaint* before the Court before the 28th July 1900. The mere fact that a *plaint* contained a defect in the matter of signature or verification does not make it a void and inadmissible *plaint*. On this point we may refer to the ruling in *Basdeo v. John Smidt* (1). We have in this case the fact that after the *plaint* had been returned for amendment, it was filed again on the 22nd of December 1899, duly verified and signed by Abdul Rahman. From that date up to the date of the

1903

 MAHARAJA
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(1) (1899) A. L. R., 22 All., 55.

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SARAN.

decision of the suit the plaint was before the Court. Whatever defect might have existed in it in consequence of Abdul Rahman not having been appointed the recognized agent of the Maharaja by the Government until the 16th of April 1900, that defect was cured as soon as he was so appointed on the 16th of April 1900. On that date the prescribed period of limitation for the suit had not expired. On behalf of the respondent reference was made to the ruling of a Division Bench of this Court in *Marghub Ahmad v. Nihal Ahmad* (1). It is not necessary for the purposes of this appeal for us to say whether or not we agree with the view adopted in that case, but we are of opinion that that case is perfectly distinguishable from the present. In that case there was no plaint before the Court which had been filed by the only person competent to file it. Such is not the case here. As soon as Abdul Rahman was appointed the recognized agent of the plaintiff Maharaja, he became competent to institute the suit and verify the plaint on behalf of the Maharaja. The plaint was already before the Court, and Abdul Rahman had signed and verified it. It became a valid and effective plaint for all purposes as soon as the formal order for his appointment was obtained. For these reasons we are of opinion that the lower appellate Court was in error in dismissing the suit. We accordingly allow the appeal, set aside the decree of the lower appellate Court, and remand the case to that Court under section 562 of the Code of Civil Procedure for trial on the merits. The appellant will have the costs of this appeal. Other costs will follow the event.

Appeal decreed and cause remanded.