

the High Court, with costs, and to affirm the decree of the Subordinate Judge.

The respondents will pay the costs of this appeal.

Appeal allowed.

Solicitors for the appellant: Messrs. *Barrow & Rogers.*

C. B.

P. C.*
1888
December
6 and 19.

* IN THE MATTER OF THE PETITION OF R. E. TWIDALE,
*Privy Council, practice of—Admission to practise in the Privy Council—
Rules of 31st March 1871—Vakil of High Court.*

The words of ss. 2 and 3 of the Rules of 31st March 1871 are such that the classes of persons to be admitted to practise in the Privy Council must be either Solicitors or others practising in London, or Solicitors admitted by the High Courts in India or in the Colonies respectively, and have not left an undefined class admissible at the discretion of the Judicial Committee.

THIS was a petition by Mr. Richard Erasmus Twidale, a pleader in the High Court, Calcutta, to be admitted as Agent to practise in the Privy Council, upon his subscribing the declaration prescribed by the rules established by the order of Her Majesty in Council of 31st March 1871, "to be observed by Proctors, Solicitors, Agents and other persons admitted to practise before Her Majesty's Honourable Privy Council" (1).

After requiring in the first section that every Proctor, Solicitor, or Agent admitted to practise before the Privy Council or any of the Committees thereof, shall subscribe a declaration in the form given, the rules contain the following:—

2. Every Proctor, Solicitor, or Attorney practising in London, and duly admitted in any of the Courts of Westminster, shall be allowed to subscribe the foregoing declaration, and to practise in the Privy Council, upon the production of his certificate for the current year.

3. Persons not being certificated London Solicitors, but having been duly admitted to practise as Solicitors to the High Courts of Judicature in India or in the Colonies respectively, may apply by petition to the Lords of the Judicial Committee of the Privy Council; and such persons, if admitted to practise by an order of their Lordships, shall pay annually, on the 15th November, a fee of five guineas to the Fee Fund of the Council Office.

* *Present*: LORD FITZGERALD, LORD HOBHOUSE, and SIR R. COUCH.

(1) The rules are printed in the Appendix to "The Practice of the Judicial Committee," by William Maspherson, Esq., at p. 65.

Mr. R. V. Doyne, in support of the petition, argued that the scope of the Rules of 1871 having been to state certain duties to be discharged by practitioners upon admission, their object had not been to define the classes of persons to be admitted to practise. This was left to be, as it must have been before the rules, a matter discretionary with their Lordships; and the second and third sections specified those classes in imposing a duty upon them, which hitherto alone had been admitted. But the rules were for an enabling purpose, imposed no limit upon the powers of the Committee, and used no negative words to confine the term "Agents" to any classes of persons. He referred to the case of *In the matter of the petition of W. Tayler*.

The judgment of their Lordships was delivered by

LORD HOBHOUSE:—Since this case was argued their Lordships have considered the matter very carefully and they have been furnished with a copy of the shorthand notes of the proceedings on Mr. Tayler's petition; and they find, with some regret, that they are unable to accede to Mr. Twidale's request.

Mr. Twidale is a vakil of high standing and reputation in the Calcutta High Court; but he has not been admitted as a Solicitor anywhere, in England or in India. He now applies to be admitted to practise here as an Agent, and the question is whether the Orders in Council admit of such an application being granted. No doubt, there is some ambiguity about them because in general terms they refer to "Proctors, Solicitors, or Agents." There are four sections of the Order relating to the subject, and in the first and fourth of those sections all those terms are mentioned; but the two sections which show what is the mode of admission, and the classes to be admitted, are the second and third; and those only apply to Solicitors or others practising in London, and to Solicitors admitted by the High Courts in India or the Colonies respectively. The question is whether those rules 2 and 3 are exhaustive of the classes to be admitted, or, as was argued by Mr. Doyne, they only specified what should be done in the case of those two classes, and left an undefined class called "Agents," who were to be admitted at the discretion of the Committee. Mr. Tayler's case, which has been cited, is exactly in point. Mr. Tayler also was a vakil of the Calcutta High Court, and he had

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not been admitted as a Solicitor anywhere. He applied for leave to practise at this bar. His Counsel, Sir Roundell Palmer (Lord Selborne) put the case very much as Mr. Doyne has done. Lord Cairns, on behalf of the Committee, said in that case "the qualifications are in the Schedule." That means in the Orders I suppose; it is a mistake of the shorthand writer. "The third appears to be the only one upon which any claim can be made. The third applies to Solicitors practising in India." Then Sir Roundell Palmer said "yes, I see there are affirmative words which do not embrace this case: I do not perceive that there are any negative words which would exclude it." Well that is precisely the argument which Mr. Doyne put at the bar here. The answer to this is, "Lord Cairns:—There was an obvious reason for specifying the classes which are here specified. I do not say what may or may not be done hereafter, with regard to the very wide class of vakils who are under very different jurisdictions, but certainly they are not included at present in the Order." That (as will be seen) is exactly in point.

Their Lordships collect that the Committee on that occasion, as on this, were by no means disinclined to grant the petition, if it were within their power. But it has been expressly decided that it is not within their power, and their Lordships now must follow that decision, and refuse the application.

Petition rejected.

Solicitors for the petitioner: Messrs. T. L. Wilson and Co.

C. B.

APPELLATE CIVIL.

Before Sir W. Comer Petheram, Knight, Chief Justice, and Mr. Justice Gordon.

MOHESH CHUNDER CHUTTOPADHYA (DEFENDANT) v. UMATARA DEBY (PLAINTIFF).*

1889
 May 21.

Appeal—Bengal Tenancy Act (VIII of 1885), s. 153—Cesses, Suit for—Bengal Act (IX of 1880), s. 47—Appeal in cases under Rs. 100.

A suit to recover cesses for an amount not exceeding Rs. 100 falls, under the provisions of s. 153 of Act VIII of 1885 with respect to appeals.

* Appeal from Appellate Decree No. 1545 of 1888, against the decree of H. Beveridge, Esq., Judge of 24-Pergunnahs, dated the 27th of June 1888, reversing the decree of Baboo Dino Nath Siroar, Munsiff of Barulpoore, dated the 31st of December 1887.