

have passed to his judgment-debtors by way of inheritance from Raja Narain Singh. The decree has been interpreted in this sense as between the parties, and that interpretation has become *res judicata* between them. The subsequent alteration in the law can have no effect as regards this question, namely, what did the court which passed the decree intend to give to the decree-holder and what rights were actually given him by the said decree. We, therefore, are of opinion that this appeal must prevail. We set aside the order of the lower court and dismiss the application for execution. The appellants will get their costs throughout.

Appeal decreed.

1910

THE
COLLECTOR
OF SHAH-
JAHANPUR
P.
BEHARI LAL.

1910

January 19.

Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Piggott.
KESHO DAS AND ANOTHER (DEPENDANTS) v. MAKSUDAN DAS (PLAINTIFF).*

Landlord and tenant—Denial of lessor's right to sue—Estoppel.

Held that a tenant who had taken a lease from one of several trustees was not competent to deny his lessor's right to sue alone for the rent. *Musammat Purnia v. Torab Ally* (1), and *Jainarayan Bose v. Kadimbini Dasi* (2) referred to.

THE plaintiff respondent brought a suit for the recovery of arrears of rent for 1312 Fasli to 1314 Fasli as one of the superintendents of a certain temple. The defence was the admission of the liability, but denial of the plaintiff's right to recover the amount, as there were other trustees who were not brought on the record and who had served notice on the defendants not to pay the arrears to the plaintiff alone. The courts below decreed the claim. The defendants appealed.

Pandit Mohan Lal Sandal (with him Babu Durga Charan Banerji) for the appellants.

Babu Sarat Chandra Chaudhri (for Babu Jogindro Nath Chaudhri), for the respondent.

STANLEY, C. J., and PIGGOTT, J.—There is no force in this appeal. The plaintiff's suit was brought to recover arrears of rent due by the defendants under a letting made to them by the plaintiff. It is found by the lower appellate court that the

* Second Appeal No. 1024 of 1908 from a decree of B. J. Dalal, District Judge of Agra, dated the 20th of August, 1908, confirming a decree of Muhammad Nur-ul-Hasan Khan, Assistant Collector, 1st class, of Agra, dated the 15th of May, 1908.

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DAS.

defendants took a lease from the plaintiff alone and on the expiration of that lease the defendants continued to remain in possession of the property on the basis of the lease. Subsequently to the years for which the rent is claimed in this litigation the defendants were ejected in a suit brought by the plaintiff alone. Both the lower courts have given a decree for the amount of the arrears. This appeal has been preferred, and the grounds of appeal are substantially that there has been litigation between the plaintiff and other parties in relation to the property in dispute, and other property, which is alleged to be endowed property, and that the defendants, if they pay the arrears of rent to the plaintiff, may be held responsible for the same at the suit of other parties. In other words, they question the title of the plaintiff to make the lease under which they took and have been in possession. It is one of the best settled rules of law that a lessee is estopped from denying his lessor's title. In the case of *Musammatt Purnia v. Torab Ally* (1), it was held that the question of the lessor's title was one foreign to a suit for rent instituted against the lessee, though the ostensible lessor might be merely a trustee and as such liable to account to the *cestui que* trust. This case is cited in the case of *Jainarayan Bose v. Kadimini Dass* (2). The courts below were right in the decision at which they arrived, and we dismiss this appeal with costs.

Appeal dismissed.

(1) 3 Wyman 14. (2) (1869) 7 B. L. R., 723.