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May, 15.

*Before Mr. Justice Piggott and Mr. Justice Lindsay.*

MUHAMMAD ABDUL JALIL (PLAINTIFF) v. RAM DAYAL AND OTHERS  
(DEFENDANTS)\*

*Copyright—Preparation by a member of the Board of the Studies, Allahabad University, a list of graduated selection from different authors for certain examinations—Publication by the Syndicate of a syllabus containing amongst other items the selection already referred—Publication of same in book form by a book-seller—Infringement of copyright.*

A, a member of the Board of Studies of the Allahabad University, prepared at the request of the convener a list of graduated selections from standard Persian authors for the use of candidates for certain examinations of the University. In preparing these lists he spent considerable labour, learning and skill. The Board of Studies after due consideration adopted with slight modifications the selections shown in the list as the subject for those examinations in Persian and published the lists for the information of the public generally and of the candidates concerned specially. Subsequently to this B. a firm of publishers compiled books from the original authors according to these lists:—*Held* that A had no copyright in the lists as by laying the result of his labours before the Board of Studies he placed the lists unreservedly at the disposal of the University authorities.

THE facts of this case are fully set forth in the judgement of the Court.

Mr. Abdul Raoof, Dr. S. M. Sulaiman and Munshi Jang Bahadur Lal, for the appellant.

Mr. M. L. Agarwala and The Hon'ble Dr. Tej Bahadur Sapru, for the respondents.

PIGGOTT and LINDSAY, J.J.:—This is an appeal by the plaintiff in a suit claiming a perpetual injunction in respect of an alleged breach of copyright with substantial damages, from the defendant who are a firm of publishers in Allahabad. The books which are alleged to have infringed the plaintiff's copy-right are three volumes of graduated selections from standard Persian authors, the said selections having been prescribed at the end of the year 1911, by the Allahabad University for the subject matter of its examinations, in the Matriculation, Intermediate and B. A. courses respectively, to be held in the year 1914. The plaintiff Maulvi Muhammad Abdul Jalil Shams-ulma is a professor of the Queen's College, Benares, and a member of the Board of Studies of the Allahabad University. In the early part of the year 1911, the question of the courses to be prescribed

\* First Appeal No. 28 of 1913, from a decree of S. R. Daniels, District Judge of Allahabad, dated the 21st of May, 1914.

for the examinations in the Persian language in the year 1914, began to be discussed by the Board of Studies. A project for a book of selections suitable to the B. A. course had been prepared, by Mr. Amjad Ali, this was submitted to the convener of the Board of Studies and by him referred to the plaintiff for opinion. The plaintiff criticised this book adversely and it was suggested to him by the convener of the Board that he might himself propose suitable courses of study for each of the three examinations. The correspondence which followed is on the record of the case and has been laid before us in detail. It would seem from the plaintiff's own evidence that the idea of preparing graduated extracts from standard Persian authors, suitable for students preparing for each of the three examinations, had been previously present to the plaintiff's mind. At any rate he now offered not merely to prepare lists of selections for the approval of the Board of Studies, but to prepare books or readers embodying the result of his selections. He was warned by the convener that what was immediately required by the Board of Studies was merely lists of selections suggested as suitable, and eventually the plaintiff laid such lists before the Board of Studies of which, as already remarked, he was himself a member. The lists prepared by him for the Matriculation and Intermediate examinations were approved as they stood and the list prepared for the B. A. examinations was passed with slight alterations. Towards the end of December, 1911, the Syndicate of the Allahabad University published a syllabus including, amongst other items, the selections already referred to, prescribed for students presenting themselves for the three examinations in question in the year 1914. In the meantime, and thereafter correspondence continued between the plaintiff, the Dean of the Faculty of Arts, and the Registrar of the University, on the subject of remuneration claimed by the plaintiff on account of the labour undertaken by him. The plaintiff in fact desired that the books which he was preparing on the basis of the lists approved by the Board of Studies should be prescribed by the University as the Persian readers recommended for the use of students preparing for the 1914 examinations and that his right as the compiler of these three books should be protected by

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copyright. He made an alternative suggestion that the University should remunerate him for the labour which he had expended, and he named a sum of Rs. 4,029, as the remuneration to which he considered himself entitled.

This is not a suit for damages against the authorities of the Allahabad University and it is not necessary for us to enter into a discussion of the position as between the plaintiff and the University authorities, except in so far as we find it necessary to do so in order to throw light on the present litigation. The University of Allahabad was quite aware that, by prescribing any particular edition of selections from standard Persian authors for the use of students preparing for its examination it would add considerably to the market value of any edition so prescribed. It is clear also that the Allahabad University had no intention of thus enhancing the market value of any edition prepared under the supervision of its own Board of Studies, or by a member of the said Board. The defendants obtained access, as any member of the public was entitled to do, and as an enterprising firm of publishers was practically certain to do, to the syllabus printed under the authority of the University at the end of the year 1914. Their case is that the three books which form the subject matter of the present litigation owe nothing to the plaintiff personally. The defendants obtained the information they wanted from the syllabus of studies published by the University authorities. On the basis of the information so obtained they sought out the original texts and so prepared their edition of extracts in book form for each of the three examinations. The plaintiff contends that he has copyright in the results of his own labours as embodied in the lists published in the syllabus of the University. It may be conceded that a considerable amount of learning, experience and labour was applied by the plaintiff to the preparation of the lists which he submitted to the Board of Studies. It may also be that it was never the plaintiff's personal intention that this service on his part should be rendered gratuitously. He undoubtedly desired to prepare readers on the basis of the suggestions laid by him before the Board of Studies, and to obtain remuneration for himself by the sale of the readers so prepared. As a matter of fact the plaintiff

has himself prepared readers for each of the three standards on the basis of his own selections, and has published the same ; but in each case the publication by the plaintiff took place subsequently to the publication by the defendants. We think that when the plaintiff as a member of the Board of Studies laid the results of his skill and experience before the Board, and then joined with the other members of the Board in preparing the syllabus for the examinations to be conducted in the Persian language in the year 1914, he placed the results of his labours unreservedly at the disposal of the University authorities. He may have desired that those authorities should either remunerate him for his labours, or take suitable measures to protect the copyright in the selections themselves. But when the University authorities published their syllabus they surrendered any copyright which may or may not have existed owing to the skill, learning, experience and labour expended on the preparation of these lists of passages from standard authors, unreservedly into the hands of the general public. The avowed intention of the University authorities was that any enterprising firm of publishers which considered it a remunerative speculation should bring out the passages in question in book form. They were of opinion that the interests of the public, and of the general body of students, would best be served by allowing free competition in this matter. We think these facts need only be set forth in order to make it clear that the plaintiff retains no copyright in the selections as such.

In the court below a strenuous effort was made on the part of the plaintiff to put his case upon another, or an alternative basis. It was suggested on his behalf that the defendants had saved themselves the labour of referring to the original Persian authors by getting hold, in some way or other, of the plaintiff's own manuscripts as they were passing through the press. This question has been very fully dealt with by the learned District Judge. The suggestion put forward on the part of the plaintiff admittedly rested upon no direct evidence. It was sought to base it merely on a comparison of the two editions, that is to say, of the edition first published by the defendants and the edition subsequently published by the plaintiff. The learned District Judge has,

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sufficiently shown that there is no basis in fact for the plaintiff's plea on this point, and that such coincidences as were relied upon by him have been sufficiently explained in the evidence given by the defendants.

For the reasons stated we find no force whatsoever in this appeal. We dismiss it accordingly with costs.

*Appeal dismissed.*

## PRIVY COUNCIL.

RADHA KUNWAR (DEFENDANT) *v.* REOTI SINGH (PLAINTIFF.)

[On appeal from the High Court of Judicature at Allahabad.\*]

*Appeal to Privy Council—Valuation of appeal—Civil Procedure Code (1908), section 110—Appealable amount subject-matter of appeal—Suit to enforce mortgage—Person made defendant as having adverse claim on the mortgaged property—Appeal on rejection of her claim by High Court.*

In a suit to enforce a mortgage for Rs. 2,000, the amount due upon which was Rs. 88,000 the mortgagee (respondent) asked for payment or for a sale of the mortgaged property. Besides the parties who claimed under the mortgagor the appellant who set up an adverse claim to a portion of the mortgaged property and the person through whom she claimed were made defendants and they alone defended the suit. The Subordinate Judge allowed a moiety of her claim, but on appeal the High Court held that she had no title to any of the property. The High Court granted her leave to appeal to His Majesty in Council under section 110 of the Civil Procedure Code, 1908, on the ground that as the mortgage decree imposed on the property a liability for Rs. 88,000 the subject-matter of the appeal was a sum exceeding Rs. 10,000.

*Held* by the Judicial Committee (on a preliminary objection that the appeal was not maintainable as the subject-matter of it was below the appealable value), that as between the respondent seeking to enforce his mortgage and the appellant it was quite immaterial what the amount of the mortgage was, and that the subject-matter in dispute was not the Rs. 88,000 but simply the value of the property the appellant claimed, which was not shown to be of the amount prescribed by section 110 of the Civil Procedure Code, 1908.

APPEAL No. 46 of 1915 from judgement and decree (12th March, 1912) of the High Court at Allahabad, which varied a judgement and decree (8th June, 1910) of the Subordinate Judge of Aligarh.

\* *Present.*—The LORD CHANCELLOR (LORD BUCKMASTER) LORD ATKINSON and Sir JOHN EDGE.

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