

attempt was made to fix the period. It seems to us fairly clear that the plaintiffs have misconceived their remedy, and that they ought to have brought a suit to recover damages for the wrongful revocation of the licence. They cannot claim as lessees for the simple reason that no lease in law was created. We must allow this appeal and set aside the decrees of the courts below. The plaintiffs' suit will stand dismissed with costs in all courts.

*Appeal allowed.*

*Before Mr. Justice Tudball and Mr. Justice Walsh.*

GULZARI LAL (PLAINTIFF) v. LATIF HUSAIN (DEFENDANT.) \*

*Act (Local) No. II of 1901 (Agra Tenancy Act), sections 182 and 193—Suit for rent—Second appeal to District Judge—Remand—Appeal—Civil Procedure Code (1908), order XLI, rule 23.*

*Held* that no appeal lies from an order of remand under order XLI, rule 23 of the Code of Civil Procedure made by a District Judge in an appeal in a suit for rent under section 180, clause (2) of the Agra Tenancy Act, 1901.

In a suit for rent under the Agra Tenancy Act, 1901, the first court (Assistant Collector of the second class) decreed the claim. The defendant appealed to the Collector, who upheld the decree. A second appeal was preferred to the District Judge under the provisions of section 180 (2) of the Agra Tenancy Act, 1901. The District Judge remanded the case through the court of first appeal to the court of first instance for decision in view of certain remarks made in his judgement. From this order of remand the plaintiff appealed to the High Court.

Dr. *Surendra Nath Sen*, for the appellants.

Dr. *S. M. Sulaiman*, for the respondents.

TUDBALL and WALSH, JJ. :—This is an appeal from an order of remand passed by a District Judge in a simple suit for rent. A preliminary objection is taken that no appeal lies to this Court. The suit was instituted in the court of an Assistant Collector of the second class and was decreed. An appeal was preferred in the court of the Collector of the district which upheld the decree. A second appeal was preferred to the District Judge under the provisions of section 180, clause (2). The learned District Judge has remanded the case through the court of the first instance for decision in view of certain remarks made by the District Judge in his

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RAI.

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\* First Appeal No. 131 of 1915, from an order of J. L. Johnston, Additional Judge of Farrukhabad, dated the 21st of April, 1915.

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judgement. Act II of 1901, section 175, clearly lays down that "no appeal shall lie from any decree or order passed by any court under this Act except as hereinafter provided." Appeals from District Judges' decisions are governed by section 182, which allows only second appeals to this Court from a decree in appeal of a District Judge in accordance with the provisions of Chapter XLII of the Code of Civil Procedure (Act XIV of 1882). In view of the above section and of the provisions of section 193, clause (a) it is quite clear that no appeal lies to this Court from the order of remand passed by the court below. The preliminary objection must, therefore, prevail and the appeal is rejected with costs.

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### FULL BENCH.

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1916

January, 4.

*Before Sir Henry Richards, Knight, Chief Justice, Mr. Justice Tudball and  
Mr. Justice Muhammad Raftq.*

#### IN THE MATTER OF A PLEADER. \*

*Act No. XVIII of 1879 (Legal Practitioners Act), section 14—Legal practitioner—Prosecution ordered—Certificate not to be cancelled until result of prosecution is known—Practice.*

Where a District Judge, having the alternative to take action against a pleader practising in his judgeship under section 14 of the Legal Practitioners Act, 1879, or to initiate criminal proceedings against him, takes the latter, he ought to wait until the result of the criminal proceedings is known before refusing to renew the pleader's certificate.

THE District Judge of Meerut having reason to suppose that a pleader practising in his judgeship had committed an offence in connection with two suits, which had come before him in appeal and in which the pleader was plaintiff, ordered the pleader to be prosecuted under section 209 of the Indian Penal Code. In the suits there were second appeals to the High Court, and the criminal proceedings were suspended pending the result of these appeals. Meanwhile the pleader's certificate came before the District Judge for renewal. The District Judge refused to renew the certificate. The pleader thereupon preferred the present application to the High Court.

The Hon'ble Dr. *Tej Bahadur Sapru*, for the applicant.  
*Babu Lalit Mohan Banerji*, for the Crown.

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\* Civil Miscellaneous No. 554 of 1915.