

Before Mr. Justice Stuart and Mr. Justice Wallach.

GAJ KUMAR CHANDAR (PLAINTIFF) v. SALAMAT ALI AND ANOTHER
(DEFENDANTS).*

1919
August, 6.

Act (Local) no. II of 1901 (Agra Tenancy Act,) section 167—Revision—Powers of High Court—Suit for rent in the Court of an Assistant Collector—Second appeal heard by District Judge.

The High Court has no power to entertain an application for revision against an order passed in an appeal by a District Judge against the decision of an Assistant Collector in a case exclusively triable by a Court of Revenue. *Muhammad Ehtisham Ali v. Lalji Singh* (1) followed. *Parbhu Narain Singh v. Harbans Lal* (2) referred to.

THE facts of this case were as follows :—

The plaintiff brought a suit, under section 102 of the Agra Tenancy Act, in the court of an Assistant Collector, second class, for recovery of arrears of rent against two defendants. The suit was dismissed on the finding that the relationship of landholder and tenant did not exist between the plaintiff and either of the defendants. On appeal to the Collector the suit was decreed as against the first defendant alone. Against this decision the second defendant appealed to the District Judge, who restored the decree of the first court. The plaintiff then filed a revision in the High Court against the decree of the District Judge.

At the hearing of the case, which was referred to a Bench of two Judges in view of the decision in the case in *Parbhu Narain Singh v. Harbans Lal* (2), Babu Girdhari Lal Agarwala, for the opposite party, took a preliminary objection that no revision lay to the High Court at all. Section 167 of the Tenancy Act barred the revisional jurisdiction of the High Court in cases like the present. Reliance was placed upon the decision of PIGGOTT, J., in the case of *Parbhu Narain Singh v. Harbans Lal* (2) and upon the cases of *Jamna Prasad v. Karan Singh* (3) and *Muhammad Ehtisham Ali v. Lalji Singh* (1).

Munshi Gulzari Lal, for the applicant, in reply to the preliminary objection. Of the cases cited by the opposite party, that of *Muhammad Ehtisham Ali v. Lalji Singh* (1) is not in point. There, the order of which revision was sought,

* Civil Revision no. 103 of 1918.

(1) 1918) I. L. R., 41 All., 226. (2) (1916) 14 A. L. J., 231.

(3) (1918) I. L. R., 41 All., 28.

1919

GAT KUMAR
CHANDAR
v.
SALAMAT ALI.

was one passed by an Assistant Collector. In the present case it is the decision of a District Judge which is sought to be revised, under the provisions of section 115 of the Code of Civil Procedure I rely upon the decision of WALSH, J., in the case of *Parbhu Narain Singh v. Harbans Lal* (1). Section 115 of the Code of Civil Procedure confers upon the High Court the power of revision over all Subordinate Civil Courts. The decision of a District Judge is, therefore, as such, amenable to the revisional jurisdiction of the High Court. The scope of section 115 is not destroyed by the mere fact that the decision of the District Judge was in an appeal which came from a Revenue Court. That fact does not make the District Judge cease to be a Civil Court subordinate to the High Court. There is nothing in section 167 of the Tenancy Act which bars the present revision. The present application is not one which is specified in the fourth schedule of the Tenancy Act and could not be heard by the Revenue Court. Section 185 of the Tenancy Act gives only a limited scope of revision. It confers upon the Board of Revenue jurisdiction to revise certain decisions of the Revenue Courts; it does not touch at all the subject of revision of decisions of the Civil Courts, as that subject is within the province of the Code of Civil Procedure and is regulated by section 115 thereof. It is in recognition of this difference of provinces that section 193 of the Tenancy Act made chapter XLVI of the Code of 1882, including the revision section 622, applicable to the procedure governing Revenue Court cases. If it had not been the intention of the Legislature that the High Court should exercise revisional jurisdiction over the decisions of Civil Courts in matters coming before them from the Revenue Courts, section 622 of the Code of 1882 would, among other provisions thereof, have been expressly excluded from application to Revenue Courts. The inclusion of section 622 must be given some meaning, at any rate, the general powers of superintendence which the High Court has over the Subordinate Civil Courts have not been, and could not be, taken away by any provisions of the Tenancy Act. This revision may be entertained under those powers.

STUART and WALLACH, JJ. :—The decision of this revision has been referred to a Bench of two Judges in view of the difference of opinion between the Judges who decided *Parbhu Narain Singh, Kashi Naresh v. Harbans Lal* (1). The point is this. Does a revision under section 115 of the Code of Civil Procedure lie against the order of a District Judge in an appeal against the decision of a Assistant Collector in a matter under the provisions of section 167, Local Act II of 1901? We have heard the arguments. The arguments to the effect that no such revision lies can briefly be stated as follows :—Under the provisions of section 167, Local Act II of 1901, “all suits and applications of the nature specified in the fourth Schedule shall be heard and determined by the Revenue Courts; and except in the way of appeal, as hereinafter provided, no courts other than Courts of Revenue shall take cognizance of any dispute or matter in respect of which any such suit or application might be brought or made. The authority of courts for dealing with the matters provided for by that Act is to be found in the provisions of the Act itself. Revenue Courts only have authority to deal with original matters. Revenue Courts in some instances and Civil Courts in other instances have authority to deal with matters in appeal. The Act confers powers in revision under the provisions of section 185 on the Board of Revenue alone. What authority then, we are asked, has the High Court, “except in the way of appeal as hereinafter provided?” According to this argument the High Court has necessarily no revisional authority. The arguments on the other side are to the effect that section 115 of the Code of Civil Procedure confers upon the High Court revisional jurisdiction over all Civil Courts subordinate to itself. As a District Judge’s Court is subordinate to the High Court, it follows, according to this argument, that the High Court must have powers to revise any orders passed by a District Judge. Great stress is laid in this connection upon the provisions of section 193, Local Act II of 1901, and we have been asked to note that the provisions of section 622 of the old Code of Civil Procedure are not excluded under the provisions of section 193. After considering the point, we are of opinion that

1919

 GAJ KUMAR
 CHANDAR
 v.
 SALAMAT ALI.

(1) (1916) 14 A. L. J., 281 (281).

1919

GAJ KUMAR
CHANDAR
v.
SALAMAT ALI.

the argument against the existence of revisional powers of the High Court in these matters must prevail. The fact that there is no exclusion of section 622 in section 193, does not affect the question, for the provisions of the Code of Civil Procedure apply to the procedure in suits and other proceedings under the Rent Act so far as they are not inconsistent therewith. Thus the only power that the High Court has to dispose of matters covered by Local Act II of 1901, is given by the Act itself and the power of revision is not a power which is so given to it. In other words we accept the view of Mr. Justice PIGGOTT in *Parbhu Narain Singh, Kashi Naresh v. Harbans Lal* (1)—“I am, as at present advised, of opinion that it would be doing violence to the words of the last clause of section 167 of the Tenancy Act for this Court to entertain the present application at all.” The same view was taken by TUDBALL, J., in *Muhammad Ehtisham Ali v. Lalji Singh* (2). We, therefore, find that the High Court has no power to entertain an application for revision against an order passed in appeal by a District Judge against the decision of an Assistant Collector. We accept the preliminary objection and dismiss this revision with costs.

Petition dismissed.

FULL BENCH.

Before Mr. Justice Muhammad Rafiq, Mr. Justice Stuart and Mr. Justice Wallach.

IN THE MATTER OF A MUKHTAR.*

Act no. XVIII of 1879 (Legal Practitioners Act), section 13 (f)—Mukhtar—Conduct rendering legal practitioner amenable to disciplinary powers of the Court—Writing insulting letters to an officer.

A Mukhtar practising in the Criminal and Revenue Courts of a sub-division addressed certain grossly insulting letters to the Sub-divisional Officer in his character as officer in charge of the copying department.

Held that such conduct on the part of a Mukhtar fell within the purview of section 13 of the Legal Practitioners Act, 1879, and rendered the writer amenable to the disciplinary jurisdiction of the High Court.

THIS was a reference made by the District Judge of Gorakhpur under section 14 of the Legal Practitioners Act, 1879, in

* Civil Miscellaneous no. 276 of 1919.

(1) (1916) 14 A. L. J., 281.

(2) (1916) I. L. R., 41 All., 226.