

jurisdiction to proceed under that section, he would in our opinion be quite justified in allowing the Collector to retain possession of the property unless and until Basdeo Gir establishes his title in a regular suit brought against Pritam Gir. On the other hand, if section 5 of Act No. XX of 1863 does not apply at all and the District Judge has no jurisdiction to proceed under that section, then in our opinion the order, dated the 14th of December, 1917, passed by him would be without jurisdiction and Basdeo Gir will have to be allowed to retain possession of this property unless a suit is brought against him for his dismissal or dispossession. Pending the inquiry by the learned District Judge we think it would be advisable that the Collector should remain in possession of the estate as he at present is. We allow the application, set aside the order of the District Judge, dated the 14th of December, 1917, and remand this case to his court for disposal according to law. Costs of this revision will abide the event.

*Application allowed ; cause remanded.*

## APPELLATE CIVIL.

*Before Sir Grimwood Meares, Knight, Chief Justice, and Mr. Justice Sulaiman.*

PRITAM GIR (APPLICANT) v. MAHANT BASDEO GIR (OPPOSITE PARTY).\*  
Act No. XX of 1863 (Religious Endowments Act), section 5—Order appointing the Collector to take charge of a Math—Appeal.

No appeal lies against an order made under section 5 of the Religious Endowment Act, 1863. *Minakshi Naidu v. Subramanya Sastri* (1) referred to.

THE facts of this case are fully stated in the judgment in the connected application for revision at page 50 *supra*. Briefly they were as follows :—

This was an appeal against an order of the District Judge of Ghazipur purporting to be passed under the provisions of section 5 of the Religious Endowment Act, 1863, under the following circumstances. There was a *math* in mauza Bairia, pargana Duaba, in the district of Ballia. The last Mahant was one Rama Nand Gir. On his death the management of the *math* was, by an order of the District Judge, placed in the hands of the

\* First Appeal No. 45 of 1918, from a decree of G. C. Badhwar, District Judge of Ghazipur, dated the 14th of December, 1917.

(1) (1837) L. L. R., 11 Mad., 26.

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Collector of Ballia. In 1916, one Basdeo Gir, in an *ex parte* suit obtained from the Subordinate Judge an order appointing himself as Mahant, and the property of the *math* was handed over to him. Subsequently, however, the *ex parte* decree was set aside, and Basdeo Gir on the re-hearing failed to establish his title. Finally on further application by Pritam Gir and Musammat Sewa Giri the *math* was again made over to the charge of the Collector. Against this order Pritam Gir appealed to the High Court.

Munshi *Haribans Sahai* and *Lakshmi Narain* for the appellants.

Munshi *Purushottam Das Tandon*, for the respondent.

MEARS, C.J., and SULAIMAN, J. :—This appeal has been filed from an order of the District Judge of Ghazipur, dated the 14th of December, 1917, purporting to be under section 5 of the Religious Endowments Act (No. XX of 1863). The proceeding started by an application under section 5 of the said Act is a miscellaneous proceeding and not a suit, and the order passed by him under that section is in no sense a decree, nor does the Act make any provision for an appeal from an order under that section. In our opinion, therefore, no appeal lies from the said order. We are fortified in this view by the decision of their Lordships of the Privy Council in the case of *Minakshi Naidu v. Subramanya Sastri* (1), which has of course been followed in subsequent cases. This appeal, therefore, fails and is dismissed with costs.

*Appeal dismissed.*

## STAMP REFERENCE.

*Before Mr. Justice Tudball.*

SHIB DAYAL (PLAINTIFF, v. MEHARBAN AND OTHERS (DEFENDANTS).\*

*Court fees—Two appeals from one decree—Subsequently two second appeals filed by the same party, the subject matter being the same—Consolidation of appeals.*

The Court Fees Act, 1870, does not provide for consolidation of appeals. If therefore, there are two appeals in the same suit, and then one party files two second appeals—one against each decree in first appeal—the appellant will have to pay the full court fee on each of his appeals.

\* Stamp Reference in Second Appeals Nos. 801 and 802 of 1920,

(1) (1887) I. L. R., 11 Mad., 26.

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 June, 12.