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DANBAR
SINGH
v.
KALIAN
SINGH.

later execution proceedings; see *Ram Kirpal v. Rup Kuari* (1).

As to the second objection we think this objection is bound to succeed. The amount of Rs. 554 odd is not entered in the final decree for sale and it could not be recovered. The execution court can only add execution costs to a decree in the course of execution proceedings and it cannot add to or amend the decree under execution, which is here the final decree obtained by the decree-holder and to which no objection was taken by the judgment-debtor. We, therefore, allow the appeal to the extent of the amount of Rs. 554-6-9 and modify the decree of the court below accordingly. Execution of the decree will now be taken for the amount decreed under the final decree obtained by the decree-holder with such costs of execution as might be found due. We make no order as to costs of this appeal.

Appeal allowed—Decree modified.

FULL BENCH.

Before Sir Grimwood Mears, Knight, Chief Justice, Justice Sir Pramada Charan Banerji and Mr. Justice Muhammad Rafiq.

IN THE MATTER OF TASADDUQ AHMAD KHAN SHERWANI,
BARRISTER AT-LAW.*

Act. No. XVIII of 1874 (Legal Practitioners Act), section 41 (3)—Legal Practitioner—Disciplinary action taken on account of a previous conviction—Propriety of the conviction not open to question.

In disciplinary proceedings taken against a member of the legal profession on account of his being convicted of some offence it is not open to the person against whom such proceedings are taken to question the propriety of his conviction. *In the matter of Rajendra Nath Mukerji* (2) referred to.

In this case notice was issued to Mr Tasadduq Ahmad Khan Sherwani, a barrister on the roll of the High Court, to show cause why he should not be struck off the roll or otherwise dealt with in the exercise of the disciplinary powers of the Court on account of his having been convicted of an offence under section 153A of the Indian Penal Code. The facts of the case are fully set forth in the order of the Court.

The Government Advocate (Babu Lalit Mohan Banerji) for the Crown.

* Civil Miscellaneous No. 433 of 1921.

(1) (1833) I. L. R., All., 269. (2) (1889) I. L. R., 22 All.,

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Mr. Tasadduq Ahmad Khan Sherwani appeared in person.

MEARS, C. J., BANERJI and MUHAMMAD RAFIQ, JJ. :—
Tasadduq Ahmad Khan Sherwani has appeared before us to-day to show cause why he, being an Advocate of this Court, should not be suspended or struck off the rolls. On the 1st of July, 1921, he made a speech at Charra. That matter was investigated by the Magistrate, who on the 18th of July, 1921, convicted Mr. Sherwani under section 153A of the Indian Penal Code and sentenced him to imprisonment. The evidence as presented to the Magistrate satisfied him that an offence had been committed. Mr. Sherwani, who has been called to the Bar in England and is an Advocate of this Court, did not, when before the Magistrate, make any defence. He put in a written statement but he did not criticize the witnesses or analyse the speech on which the prosecution was mainly based. He commenced today to do both. We pointed out to him that the case in the Magistrate's court could not be re-opened in these proceedings, and we referred to the decision of the Privy Council in *In the matter of Rajendra Nath Mukerji* (1). In that case there had been an inclination in this very Court to permit the Vakil's counsel to go behind the conviction in order that it might be shown that he had committed no offence in law. When this matter was argued in the Privy Council they said definitely that there could be no argument to show that the conviction was, in the circumstances, improper. Mr. Sherwani, therefore, comes before us to-day as a man convicted of an offence in which he promoted or attempted to promote feelings of enmity or hatred between different classes of His Majesty's subjects. He has told us that in his view an offence under that section involves no element of moral turpitude. We disagree very strongly with this view. We think that moral turpitude is always involved in the commission of an act which comes within that section and may indeed involve an offence of the deepest moral turpitude.

We have to consider now what is the proper order which should be passed. During the argument it was indicated to Mr. Sherwani that there might come a day when he would regret

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(1) (1899) I. L. F., 22 All., 49.

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not being a member of the profession. We feel that we ought to be cautious not to pass such an order as would for all time deprive Mr. Sherwani of his right to practise as an Advocate. But that is a very different thing from saying that he ought at this moment to remain an Advocate of the Court. In our view he ought not to be allowed to continue on the rolls. In view of the conviction which has been passed against him we order that the name of Tasadduq Ahmad Khan Sherwani be struck off the rolls of this Court. If, however, it should happen that hereafter Mr. Sherwani should desire to rejoin the profession and should make an application to the Court, we hope the Bench, who will have to decide that matter, will give it favourable consideration if they are of opinion that the circumstances then put forward by Mr. Sherwani and his demeanour and attitude in the matter make it just and reasonable for them to do so.

APPELLATE CIVIL.

Before Mr. Justice Lindsay and Mr. Justice Gokul Prasad.
HARNAM DAS (PLAINTIFF) v. FAIYAZI BEGAM AND ANOTHER
(DEFENDANTS)*.

Act No. XXIII of 1871 (Pensions Act), sections 11 and 12—"Pension"—
Endowment founded by the Emperor Akbar, *inter alia*, for the maintenance
of the descendants of Shaikh Salim Chishti.

Held that an allowance payable to one of the descendants of Shaikh Salim Chishti out of the income of an endowment founded by the Emperor Akbar and continued by the British Government was a "pension" within the meaning of section 11 of the Pensions Act, 1871, and therefore not assignable. *Secretary of State for India in Council v. Khemchand Jeychand* (1) followed.

THE facts of this case were briefly these :—

Some villages were assigned by the Emperor Akbar for the purposes of (a) the maintenance of the tomb of Salim Chishti, the saint of Fatehpur Sikri, (b) the maintenance of his descendants and (c) the performance of some religious ceremonies in his memory. In 1846 the British Government took these villages

*Second Appeal No. 276 of 1920, from a decree of T. K. Johnston, District Judge of Agra, dated the 25th of February, 1920, reversing a decree of Kauleshar Nath Rai, Subordinate Judge of Agra, dated the 2nd of August, 1918.

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