

1928

EMPEROR
v.
HASAN
AHMAD.

DALAL, J. :—This is a very careful submission by the District Magistrate and may usefully be reported in the Law Journals.

I set aside the conviction and sentence of Hasan Ahmad and direct the fine, if any recovered, to be refunded. All other incidental orders of the trial court are also cancelled.

REVISIONAL CIVIL.

Before Mr. Justice Mukerji and Mr. Justice Banerji.

1928
May, 23.

LAKHPAT RAI (APPLICANT) v. DURGA PRASAD AND ANOTHER (OPPOSITE PARTIES).*

Act No. XIV of 1920 (Charitable and Religious Trusts Act), section 3—Application for particulars relating to a trust—“Person interested in a trust.”

Held that, in regard to a trust the object of which was the maintenance of a public dharamsala in a certain city, a person who was a resident of that city, entitled to say at the dharamsala, and secretary of the local Dharm Asthan Sudhar Committee, was a person interested in the trust within the purview of section 3 of the Charitable and Religious Trusts Act, 1920, and therefore entitled to apply to the District Judge to call up on the manager of the dharamsala to furnish certain particulars as specified in the Act.

This was an application for revision of an order passed by the District Judge of Meerut under the provisions of the Charitable and Religious Trusts Act, 1920. The facts of the case sufficiently appear from the judgement of the Court.

Babu Surendra Nath Gupta, for the applicant.

Dr. N. C. Vaish, for the opposite parties.

MUKERJI and BANERJI, JJ. :—This is an application in revision by one Lakhpat Rai, who was manager

*Civil Revision No. 137 of 1927.

of a dharamsala in Meerut, under a deed executed by Musammat Sundar Kunwar on the 9th of December, 1908.

1928
LAKHPAT RAI
v.
DURGA
PRASAD.

One Durga Prasad, who described himself as a respectable Hindu citizen of Meerut, a Brahman by caste, and a Secretary of the Dharam Asthan Sudhar Committee, Meerut, presented an application to the District Judge of Meerut praying that the trustees of the trust created by Musammat Sundar Kunwar be directed to furnish the petitioner, through the District Judge, with (1) the particulars as to the details of the trust properties as they existed on the date of the application, (2) the names of persons to whom each property is given on rent, (3) the income derived from the trust and the expenditure incurred; and that the accounts of the trust for the last three years be examined and audited through some certified auditor.

Objection was taken by Lakhpat Rai, among other grounds, on the ground that the petitioner was not a person interested in the trust within the meaning of section 3 of Act XIV of 1920 and, therefore, the order of the learned District Judge was incompetent. Section 3 provides that any person having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the court for reliefs for which the present petitioner has applied.

We are of opinion that the words "having an interest in a trust" must in each case depend upon the nature of the trust. Lakhpat Rai was the trustee of a dharamsala constructed and dedicated under the deed of the 9th of December, 1908, and Durga Prasad in our opinion had an interest in that trust inasmuch as he was entitled to stay in that dharamsala and as secretary of the Dharm Asthan Sudhar Committee, Meerut.

1928

LAKHPAT RAI
v.
DURG
PRASAD.

We are of opinion that the view taken by the learned District Judge is correct and this application is dismissed with costs to be paid by the applicant personally.

Before Mr. Justice Mukerji and Mr. Justice Banerji.

1928

May, 23.

NARSINGH PRASAD SINGH AND OTHERS (DEFENDANTS)
v. PARTAP SINGH AND OTHERS (PLAINTIFFS).*

Civil Procedure Code, order XXXIV, rule 8—Mortgage by conditional sale—Execution of decree—Power of court to extend time for payment.

The proviso to rule 8 of order XXXIV of the Code of Civil Procedure applies to the whole of the rule and not merely to sub-rule (4). A court, therefore, has power to extend the time for payment in a suit for redemption of a mortgage by conditional sale, just as in the case of any other kind of mortgage.

THE facts of this case sufficiently appear from the judgement of the Court.

Munshi Kamala Kant Verma, for the applicants.

Munshi Gadadhar Prasad, for the opposite parties.

MUKERJI and BANERJI, JJ. :—This is an application inviting us to revise an order of the 21st of May, 1927, by which the learned Munsif of Benares purported to extend the time, originally limited by a decree for redemption, to pay up.

The suit out of which this application has arisen was one for the redemption of the mortgage, the nature of which we have not been told. The decree, however, that was passed indicates that the mortgage was one by conditional sale, for we find that the decree directed that in case of non-payment of the mortgage money the plaintiffs' right of redemption would be

*Civil Revision No. 150 of 1927.