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be printed, must remember that there is no rule which says that the appellant is to print papers on which he relies in the sense that he need only print papers in his favour. The appellant must print all the papers which he desires to use either by way of building up his case or by criticism destroying the case of the other side, that is, every document on which he can base any argument to show that his appeal should succeed. This may increase the burden upon an appellant but it is the only safe course to pursue. We have discussed this matter at some length in order that there may be no question as to what is the duty of an appellant in these circumstances. The result is that this appeal fails and is dismissed with costs.

*Appeal dismissed.*

## REVISIONAL CIVIL.

*Before Mr. Justice Banerji.*

ALLAH BAKHSH (PLAINTIFF) v. KARIM BAKHSH  
(DEFENDANT).\*

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*Act No. IX of 1887 (Provincial Small Cause Courts Act), section 35—Small Cause Court suit—Transfer to regular side of court—Jurisdiction—Appeal.*

A suit of a Small Cause Court nature was pending in the court of a Munsif who had Small Cause Court powers. That Munsif was transferred and was succeeded by a Munsif who had no such powers. The District Judge in consequence passed an order which, so far as concerned the suit in question, was to the following effect:—"All the rest will be tried by the first Munsif as regular suits." This was followed by an order of the Munsif transferring the case from the Small Cause Court side to the regular side of the court.

*Held*, that the suit had ceased to be a Small Cause Court suit and an appeal lay in the ordinary course.

\* Civil Revision No. 40 of 1926.

*Sarju Prasad v. Mahadeo Pande* (1), followed. *Chhotey Lal v. Lakhmi Chand, Magan Lal* (2), *Sukha v. Raghunath Das* (3) and *Chaturi Singh v. Musammât Rania* (4), distinguished.

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THE facts of this case, so far as they are necessary for the purposes of this report, appear from the judgment of the Court.

Mr. *A. Sanyal*, for the applicant.

Mr. *T. N. Chadha*, for the opposite party.

BANERJI, J. :—This is an application for revision under the following circumstances :—

A suit was instituted for recovery of Rs. 168 in the court of the Subordinate Judge invested with the powers of a Judge of Small Causes on the 18th of September, 1924. It was transferred to the file of the First Munsif of Bulandshahr by the order of the District Judge on the 29th of September, 1924. The transfer was made under section 24 of the Code of Civil Procedure, and the suit remained as a suit of the nature of Small Causes. On the 28th of January, 1925, the First Munsif of Bulandshahr, in whose court the suit was pending, was transferred and another Munsif took over charge, who had no Small Cause Court powers. On the same date the District Judge passed an order that all Small Cause suits pending in the First Munsif's court will be transferred and disposed of as follows :—

“ . . . (3) All the rest will be tried by the First Munsif as regular suits.”

On the 4th of February, when the suit was put up before the learned First Munsif, who had no Small Cause Court powers, he passed the following order :—

“ According to the order of the District Judge, dated the 30th (*sic*) January, 1925, this case is transferred from the Small Cause

(1) (1915) I.L.R., 37 All., 450.

(2) (1916) I.L.R., 38 All., 425.

(3) (1916) I.L.R., 39 All., 214.

(4) (1918) I.L.R., 40 All., 525.

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Court side to the regular side of this court."

It was thereafter that all proceedings in the suit took place. The suit was decreed and the defendants went up in appeal before the Subordinate Judge, who has dismissed the claim.

Mr. *Sanyal*, who appears on behalf of the petitioner, has argued that no appeal lay to the Subordinate Judge, because any order of transfer by the Judge must be deemed to be an order under section 24, clause (4), of the Code of Civil Procedure, and as the suit was originally instituted in the Court of Small Causes and was then transferred to the court of an officer who had jurisdiction to try the suit as a Small Cause Court, the trial of the suit by a second Munsif must be treated as a trial by a Court of Small Causes. In support of his contention he has referred to the cases of *Chhotey Lal v. Lakhmi Chand*, *Magan Lal* (1), *Sukha v. Raghunath Das* (2) and *Chaturi Singh v. Musammam Rania* (3). In all these cases there was no order by the Judge who tried the case transferring the case from the Small Cause Court side to the regular side. Consequently, in my opinion, none of these cases have any application. I agree with the contention of Mr. *Sanyal* that if there is no order passed by the court hearing the case transferring it to the regular side, the trial must be deemed to be one on the Small Cause Court side. Here, however, the order of the 4th of February, 1925, referred to by me, is, in my opinion, an order passed under section 35 of the Small Cause Courts Act. It is conceded by Mr. *Sanyal* that if the Munsif had upon the application of the parties or after a notice to them transferred the case from the Small Cause Court side to the regular side, there would be no objection to the case being considered one

(1) (1916) I.L.R., 38 All., 425.

(2) (1916) I.L.R., 39 All., 214.

(3) (1918) I.L.R., 40 All., 525.

as having been tried and disposed of on the regular side and there would be an appeal. But Mr. *Sanyal* argues that, because the Munsif passed the order of the 4th of February in consequence of an order of the District Judge this order cannot be treated as one under section 35. I am unable to accept this contention of the learned Counsel. In my opinion the case of *Sarju Prasad v. Mahadeo Pande* (1) is in point. In that case the Munsif passed an order transferring to the regular side all Small Cause Court suits which he found pending in the court, and tried them out as regular suits. It was held that an appeal lay against the decision of the Munsif. I am, therefore, of opinion that an appeal was entertainable by the court below.

I dismiss this application but pass no order as to costs.

*Appeal dismissed.*

## APPELLATE CIVIL.

Before Mr. Justice Kanhaiya Lal and Mr. Justice Ashworth.

SKIPPERS AND COMPANY, LIMITED (PLAINTIFF) v.  
E. V. DAVID AND OTHERS (DEFENDANTS).\*

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June, 18.

*Civil Procedure Code, section 80—Suit against public officer—Notice—Official receiver—Official receiver impleaded merely as being in possession of the property in suit.*

*Held* that section 80 of the Code of Civil Procedure would not apply to a suit against an official receiver, where the suit was really a suit to establish and realize a charge over property and the official receiver was impleaded not on account of any specific action taken by him in respect of the property concerned but merely because he was for the time being in charge of it. *Rajmal Manikchand Marwadi v. Hanmant Anyaba* (2),

\* First Appeal No. 496 of 1924 (connected with First Appeal No. 18 of 1925) from a decree of Pandit Vishnu Ram Mehta, Second Subordinate Judge of Cawnpore, dated the 2nd of September, 1924.

(1) (1915) I.L.R., 37 All., 450. (2) (1895) I.L.R., 20 Bom., 697.