

1925.

BACHAN  
SINGH  
v.  
BEJAI  
SINGH.

above in the court of first instance to the credit of Pokhar Singh. If the deposit is made within the time limited, the plaintiffs' claim will be decreed to that extent and they will be entitled to four-fifths of their costs in both the courts below. If the deposit is not so made, then their suit will stand dismissed with costs to Pokhar Singh in both the courts below. As regards the costs of this Court we leave the parties to bear their own costs.

*Appeal allowed.*

### REVISIONAL CIVIL.

*Before Mr. Justice Kanhaiya Lal.*

1925  
July, 27.

BECHAN (DEFENDANT) v. RAGHUNATH AND OTHERS  
(PLAINTIFFS)\*

*Civil Procedure Code, section 152; order XX, rule 6 (1)—  
Jurisdiction of trial court to amend a decree not in  
accordance with the judgement—Appeal.*

The jurisdiction of the court which has passed a decree to amend it so as to bring it into accordance with the judgement does not cease upon the filing of an appeal, but continues until the appellate court has heard the appeal and decided it. *Asma Bibi v. Ahmad Husain* (1) distinguished.

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

Pandit *Kashi Nurain Malawiya*, for the applicant.

KANHAIYA LAL, J.—This is an application in revision for the discharge of an order for the amendment of a decree passed by the trial court on

\* Civil Revision No. Nil of 1925.

(1) (1908) I.L.R., 30 All., 290.

the 9th of May, 1925. The trial court observes that there was a mistake in the decree which was not in accordance with the judgement and it has directed that mistake to be rectified. It is argued here that the trial court had ceased to have any jurisdiction to amend this decree or to rectify it after an appeal had been filed from that decree in the court of the District Judge. But till the District Judge hears the appeal and decides it, the decree of the trial court remains in force and it can be rectified or amended by the court which passed it. It is only when the appeal has been decided and a decree has been passed in appeal confirming, amending or reversing it, that the appellate decree operates to supersede the decree of the trial court, and it is only then that the jurisdiction of the trial court to interfere with the decree so superseded ceases. It is immaterial what has happened since the order of the trial court of the 9th May, 1925 now sought to be revised was passed. The order as passed on that date was correct and the trial court had jurisdiction to pass it. The decision in *Asma Bibi v. Ahmad Husain* (1) referred to by the learned counsel for the applicant does not apply because in that case the amendment was made after the appeal was decided. The application is, therefore, rejected. The stay order passed will be withdrawn.

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*Application rejected.*

(1) (1908) I.L.R., 30 All., 290.