

Before Mr. Justice Boys and Mr. Justice Young.

1929
May, 17.

PIARE LAL AND OTHERS (PLAINTIFFS) v. JHABBA LAL
(DEPENDANT).*

*Civil Procedure Code, order I, rule 1—Joinder of plaintiffs—
Three co-sharers joining in one suit for profits against a
lambardar—Act (Local) No. II of 1901 (Agra Tenancy
Act), sections 163 and 164.*

Several co-sharers may, by virtue of order I, rule 1, of the Civil Procedure Code, join as plaintiffs in one suit for profits against a lambardar under section 164 of the Agra Tenancy Act, 1901, inasmuch as the right to relief arises out of the same act, namely the non-distribution of profits by the lambardar on the due date.

Mr. Peary Lal Banerji, for the appellants.

Mr. Panna Lal, for the respondent.

BOYS and YOUNG, JJ.:—This is a plaintiffs' appeal arising out of a suit for profits under section 164 of the old Tenancy Act brought against the lambardar. Three plaintiffs sued in the one suit, and it is immaterial whether their shares were equal or unequal. The question was raised whether the three plaintiffs could join their separate claims for relief in one suit. They relied primarily upon order I, rule 1. Both courts have repelled their contention and have dismissed the suit. The only question then that we have to decide is whether or no, by the provisions of order I, rule 1, the three plaintiffs were entitled to join together in the one suit. Order I, rule 1 declares that "all persons may be joined in one suit as plaintiffs in whom any right to relief . . . arising out of the same act . . . is alleged to exist, whether jointly, severally or in the alternative, where, if such

*Second Appeal No. 700 of 1926, from a decree of R. L. Yorke, District Judge of Bulandshahr, dated the 12th of January, 1926, confirming a decree of Rameshwar Dayal, Assistant Collector, First Class of Bulandshahr, dated the 8th of May, 1925.

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persons brought separate suits, any common question of law or fact would arise." It is not necessary to consider the other phrases occurring in the rule. We are satisfied that the plaintiffs' several rights to relief arose out of the same act. By section 163 of the Tenancy Act it is laid down that "in the absence of any determination of the date by the Settlement Officer or of an express agreement among the co-sharers, profits shall be divisible on such dates as the Local Government may by rules made under the Act prescribe." Dates have been prescribed and no question arises in this case in regard to this point. The section itself only says, "shall be divisible," and the phrase is open to the construction that it is not therein laid down that it is the lambardar's duty to proceed to a division of the profits on the date on which they become divisible. It is open to the construction that all that is laid down is that from the date fixed it is open to co-sharers to come and claim their share of the profits. The real meaning, however, of these words, as laying down an express duty on the lambardar is made clear by the rules framed by the Board of Revenue in virtue of their powers under section 234(f) of the Land Revenue Act. The material rule is to be found at paragraph 18(b) of the Circular No. 8-III, sanctioned by the Local Government on the 24th of February, 1902. The rule reads as follows:—"The duties of a lambardar are (c) to divide at the appointed times such profits as may be divisible among the co-sharers whom he represents." We quote from the most recent edition of the Manual of the Revenue Department for the United Provinces, at page 63. This, in our view, removes the only possible doubt that might have existed as to the effect of section 163. In our opinion, therefore, the lower courts were wrong in dismissing the plaintiffs' suit on the ground that the three plaintiffs

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could not join in the one suit. We set aside the decrees of both courts and direct the trial court to restore the case to its register of pending suits and to proceed with the determination of the case according to law.

REVISIONAL CRIMINAL.

Before Mr. Justice Young.

EMPEROR v. MANSA SINGH.*

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Act No. VIII of 1914 (Motor Vehicles Act), Rules framed by U. P. Government, Rule 32—Motor accident—Duty of reporting at police station.

In rule 32 of the rules framed by the U. P. Government under the Motor Vehicles Act, 1914, the words "if any person is injured" govern the whole of the clause; the duty of reporting an accident at the nearest police station arises, therefore, only if any person is injured.

The applicant was not represented.

The Assistant Government Advocate (Dr. M. Wali-ullah) for the Crown.

YOUNG, J. :—In this case the only question for the decision of this Court is the proper construction to be put on rule 32 of the rules framed by the United Provinces Government under the Motor Vehicles Act of 1914. The rule runs as follows :—

"On the occurrence of any accident the driver and the person in charge of any motor vehicle concerned in the accident shall, if any person is injured, render to such person all such assistance as may be reasonably necessary, and shall, if there be no police officer present, report the accident without delay at the nearest police station."

There are two possible constructions of this rule, neither of which would offend against the rules of construction or of grammar. The first is that the words

*Criminal Reference No. 283 of 1929.