

REVISIONAL CRIMINAL.

Before Mr. Justice Banerji.

EMPEROR v. ABDUL KARIM.*

1927
January.
4.

*Criminal Procedure Code, sections 133 and 137—Illegality—
Magistrate's order made absolute on the strength merely
of a tahsildar's report.*

It is not competent to a magistrate, in proceedings under sections 133 and 137 of the Code of Criminal Procedure, to make his order absolute on the mere report of the tahsildar, without going into evidence. *Hingu v. King-Emperor* (1), *Ismail v. Bunda* (2), and *Jassi v. Emperor* (3), followed.

THIS was a reference from the Sessions Judge of Benares. The facts of the case, so far as they are necessary for the purposes of this report, appear from the following order :—

“ This is an application in revision against an order of Pandit Raghunandan Upadhiya, Deputy Magistrate, 1st Class, ordering the applicant to vacate a certain plot of land. The notice was sent to the applicant on the 4th of August for the 12th of August. On that day the applicant stated that he was a *parjotdar* of Girdhari Lal for the plot in suit. The lower court, without going into evidence, but relying on the report of the tahsildar, made his order absolute. No notice was sent to Girdhari Lal. I am of opinion that the lower court should have gone further into the matter and not passed an order in such a summary fashion. I have been referred to *Hingu v. King-Emperor* (1), *Ismail v. Bunda* (2), and also *Jassi v. Emperor* (3). On the analogy of the rulings I would recommend that the absolute order of the lower court be set aside and that he should be directed to proceed in accordance

*Criminal Reference No. 687 of 1926.

(1) (1909) 6 A.L.J., 685.

(2) (1922) 20 A.L.J., 657.

(3) (1922) 20 A.L.J., 692.

1927

EMPEROR
v.
ABDUL
KARIM.

with section 137, Code of Criminal Procedure. The lower court is asked to submit his explanation through the District Magistrate within a week."

Maulvi *Mukhtar Ahmad*, for the applicant.

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

BANERJI, J. :—I accept the reference.

Reference accepted.

REVISIONAL CIVIL.

Before Mr. Justice Ashworth.

1927
January,
5.

BABU RAM AND ANOTHER (PLAINTIFFS) v. MUNNA LAL
AND OTHERS (DEPENDANTS).*

Civil Procedure Code, section 115—Revision—Erroneous decision on point of limitation—"Jurisdiction."

It is no ground for revision under section 115 of the Code of Civil Procedure that the court whose order it is sought to revise may have come to an erroneous decision on a point of limitation. *Sarman Lal v. Khuban* (1), and *Sarman Lal v. Khuban* (2), followed.

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

Babu *Satish Chandra Das* and Babu *Surendra Nath Gupta*, for the applicants.

Babu *Saila Nath Mukerji*, for the opposite parties.

ASHWORTH, J. :—This is an application in revision against an order of the Munsif of Pilibhit, dated the 20th of May, 1926, setting aside an *ex parte* decree. The present applicants brought a suit against the father of the non-applicant. A written statement was filed in the suit by the father, which shows that he must have been served with the summons

* Civil Revision No. 96 of 1926.

(1) (1894) I.L.R., 17 All., 422.

(2) (1894) I.L.R., 16 All., 476.