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ambiguous, but reading the whole of that section, particularly the latter portion of it which lays down that the right of pre-emption would be extinguished unless such person within the period of one month of the receipt of the notice communicates his intention to purchase, no doubt is left that service on the pre-emptors is essential. Their right is only extinguished when they allow one month to expire after the receipt of such notice. There is therefore no force in this ground.

The next ground relates to the question of consideration. [This portion of the judgement, not material to this report, is omitted.] We therefore think that there is no force in this appeal and it is dismissed with costs.

Before Mr. Justice Mukerji and Mr. Justice Niamat-ullah.

BAIJNATH (DEFENDANT) v. DHANI RAM (PLAINTIFF).*

1929
 April, 26.

Court fees—Deficiency in lower court demanded by appellate court from respondent—Non-compliance by respondent—Power to refuse him hearing—Power to refuse him costs.

Where the respondent (plaintiff), on being called upon by the appellate court to make good a deficiency in the court fee paid by him in the first court, does not comply, the appellate court can not only stay issuing its decree if it be in his favour, but can refuse to hear him on the appeal and can, if the appeal fails, refuse him costs. *Mohan Lal v. Nand Kishore* (1), referred to.

Messrs. B. Malik and Baleshwari Prasad, for the appellant.

Mr. Satish Chandra Das, for the respondent.

MUKERJI and NIAMAT-ULLAH, JJ. :—This is a second appeal by one who was the defendant in the

* Second Appeal No. 1781 of 1927, from a decree of E. Bennet, District Judge of Agra, dated the 25th of May, 1927, confirming a decree of Y. S. Gahlant, Munsif of Agra, dated the 19th of February, 1927.

(1) (1906) I. L. R., 28 All., 270.

suit. The parties to the suit, at one stage of it, agreed that the Munsif, before whom the suit was, should decide the case, after hearing certain documentary evidence and making an inspection of the locality. They agreed that they would accept the decision of the learned Munsif. On the case being decided by the Munsif, an appeal was filed by the defendant before the District Judge. The District Judge held that the parties had constituted the Munsif an arbitrator and no appeal lay from what was virtually an award. In this view, the learned Judge dismissed the appeal. In this second appeal the view of the learned District Judge has been contested.

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We are of opinion that the view of the learned District Judge is correct and we dismiss this appeal.

On the question of costs we are of opinion that the respondent should not have any. We have refused to hear the learned counsel for the respondent. The reason was this. It was reported that there was a deficiency in the court fee paid by the plaintiff respondent in the court of first instance. The respondent was called upon to make good the deficiency, but he has not done it. The learned counsel for the respondent has urged that the only consequence of the non-payment of the court fee by his client should be that this Court will refuse to "issue the decree" in his favour till he makes good the deficiency. The learned counsel relies on the Full Bench case of *Mohan Lal v. Nand Kishore* (1). In that case the question was whether the respondent, who had failed to make good the deficiency, should have his appeal before the lower appellate court (which had succeeded) dismissed or whether there was some other remedy to compel him to make good the deficiency.

(1) (1905) I. L. R., 28 All., 270.

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All that the learned Judges held was that the procedure of dismissing the respondent's appeal before the lower appellate court was not a right procedure, and that the proper thing to do would be to "stay issuing the decree in favour of the respondent, if such should be passed, until such time as the additional court fee due by him may be paid". As we read the judgement, the learned Judges never indicated that this was the only way of bringing pressure on the respondent to make good the deficiency. The Court Fees Act does not provide any means by which the deficiency in court fee can be realized. The courts have always taken it upon themselves to realize it by such lawful means as might be open to them. One of us and the learned CHIEF JUSTICE, sitting together, have more than once held that one of the ways that was open to the court of enforcing payment would be not to hear the counsel for the respondent who was in contempt. We followed this procedure and refused to hear the respondent's counsel in second appeal.

In the result, the appeal is dismissed but without costs.

APPELLATE CRIMINAL.

Before Mr. Justice Dalal.

EMPEROR v. SIS RAM AND OTHERS.*

1929
April, 9.

*Indian Penal Code, section 366A—Procuration of minor girl—
Offering the girl to several persons successively for sale—
Whether fresh offence for each offer.*

An offence under section 366A, Indian Penal Code, is one of inducement with a particular object, and when after the inducement the offender offers the girl to several persons a fresh offence is not committed at every fresh offer for sale.

* Criminal Appeal No. 98 of 1929, from an order of D. C. Hunter, Sessions Judge of Moradabad, dated the 17th of December, 1928.