

to giving security or otherwise as the court thinks fit'. The attention of the legislature seems in both these clauses to have been directed to the manner in which security should be demanded, and as the rule immediately follows rule 5, which prescribes the manner in which execution proceedings may be stayed, the whole of rule 6 must, I think, be held to be complementary to rule 5, providing in fact an explanation of the word "security" which has been used in clause (c) of sub-rule (3) of rule 5. I am not therefore of opinion that clause (2) of rule 6 was intended to impose on the court which ordered the sale an obligation to stay the sale merely because the property which is to be sold is immovable property.

The result is that the present application fails and is dismissed with costs.

*Before Mr. Justice Mukerji and Mr. Justice Bennet.*

HIRA SINGH AND ANOTHER (PLAINTIFFS) *v.* CHANDAN SINGH AND OTHERS (DEFENDANTS).\*

1932  
May, 6.

*Jurisdiction—Civil and revenue courts—Suit by tenant against zamindar for declaration of ownership of a well situate in his tenancy plot—Cognizable by revenue court—Agra Tenancy Act (Local Act III of 1926), section 121.*

A suit by a tenant against the zamindar for a declaration of ownership of a pucca well situate in the plaintiff's tenancy plot is cognizable by the revenue court. The suit amounts to a suit for a declaration of the right of the plaintiff as tenant, within the meaning of section 121 of the Agra Tenancy Act. Such a suit will cover the question of the ownership of the well which is situated in the plaintiff's tenancy plot. Also, all questions in regard to improvements, such as wells, are cognizable by the revenue court.

Mr. Krishna Murari Lal, for the plaintiffs.

Mr. M. L. Chaturvedi, for the defendants.

MUKERJI and BENNET, JJ.:—This is a reference by a learned Munsif under section 267 of the Agra Tenancy Act, Act III of 1926, inquiring for a direction of this Court as to whether the Munsif has jurisdiction to entertain the suit in question. Learned counsel for

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defendants drew attention to the fact that one of the three defendants had died and he desired that the case should be adjourned for proceedings of abatement or substitution of names to be taken by the Munsif. But we consider that we must first decide the question as to whether the Munsif has jurisdiction to entertain the suit. The plaint asked for a declaration that the plaintiffs were owners of a pucca well in plot No. 326 of a certain village and that defendants had no connection with that well. The plaintiffs set forth in their plaint that they were the tenants of No. 326. The written statement denied that the plaintiffs were tenants of that number and alleged that the well had been made by the defendants. The plaint admitted that the defendants were the zamindars of the land in question. We consider that the case is governed by the provisions of section 121 of the Agra Tenancy Act and that the suit amounts to a suit for a declaration of the right of the plaintiffs as tenants. Such a suit will cover the question of the ownership of the well which is situated in plot No. 326 claimed by the plaintiffs as their tenancy. The plaintiffs have omitted to ask for a relief in regard to No. 326, merely with the object of making their plaint resemble a plaint in which the civil court will have jurisdiction. Chapter VII of the Agra Tenancy Act deals with the question of improvements, and all questions in regard to improvements are cognizable by the revenue court. The fourth schedule, group D, provides that applications under chapter VII in regard to improvements are triable by Assistant Collectors in charge of sub-divisions. Under these circumstances we consider that the revenue court alone has jurisdiction, and we return this reference to the learned Munsif, who should return the plaint to the plaintiffs for filing in the proper court. The plaintiffs will pay the costs of this reference and the costs of the court below.