1931

SECRETARY OF STATE FOR INDIA IN COUNCIL v. GIRDHARILAL SHAMBHUNATH.

An important plea was raised by the defendant in paragraph 9 of the written statement which runs as follows: "Neither were the hundis presented to the contesting defendant on the due date nor did there appear any person entitled to take the money." The question, therefore, which still remains for determination is whether the plaintiff could claim interest on the hundis without presenting the hundis after their maturity.

I allow the application, set aside the decree of the court below and remand the case to that court for disposal of the case with reference to the issue indicated above. Costs here and heretofore shall abide the event.

Before Sir Shah Muhammad Sulaiman, Acting Chief Justice and Mr. Justice Bajpai.

RAM PHAL (APPLICANT) *v.* KING-EMPEROR (OPPOSITE PARTY).*

1931
July, 17.

Legal Practitioners Act (XVIII of 1879), section 36, Explanation—Tout—General repute—Resolution of Bar Association declaring a person to be a tout—Resolution based on hearsay evidence—Legally admissible in evidence.

A resolution of a Bar Association declaring a certain person to be a tout "on the strength of general repute" is legally admissible as evidence of general repute for the purpose of section 36 of the Legal Practitioners Act, even though the basis of that resolution may be hearsay evidence.

Messrs. *P. L. Banerji* and *Rama Kant Malaviya*, for the applicant.

Mr. *Sankar Saran*, for the opposite party.

SULAIMAN, A. C. J. and BAJPAI, J.:—This is an application in revision from an order of the District Magistrate of Basti declaring Ram Phal applicant to be a tout.

There are precedents for the exercise of the power of superintendence by this Court when an order passed by a subordinate officer is against natural justice.

*Civil Revision No. 393 of 1930.

1931

RAM PHAL v. KING-EMPEROR.

The learned advocate for the applicant urges before us that there is no legal evidence whatsoever on which the District Magistrate could have legally acted. It appears that apart from certain oral evidence which has not been relied upon by the District Magistrate there were two resolutions of the Bar Associations of Mukhtars and Vakils in the following terms:—

(1) "That the meeting . . . is of opinion that Ram Phal stamp vendor of the place is by general repute a tout."

(2) "It is resolved that Ram Phal stamp vendor of Bansi is a tout on the strength of general repute."

The District Magistrate had power to act upon the evidence of general repute under section 36 of the Legal Practitioners Act, as amended. The Explanation added to the section makes the passing of a resolution, declaring a person to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an Association of persons entitled to practise as legal practitioners, as evidence of the general repute of such person for the purpose of that section. It cannot, therefore, be denied that if the resolution substantially is one declaring Ram Phal to be a tout, then it was legally admissible as evidence of general repute, even though the basis of that resolution may be hearsay evidence. On the other hand, if there is no resolution declaring him to be a tout, but there is a simple statement of fact that there was such evidence before the Association, then possibly it would not come under the Explanation.

There seems to be nothing in the language of the Explanation to section 36 which would make a resolution based on general repute or hearsay evidence ineffective.

The language of the first resolution was somewhat ambiguous, but the second resolution undoubtedly shows that the members recorded their conclusion and

1931

RAM PHAL v. KING-EMPEROR.

declared that Ram Phal was a tout although they also indicated that their conclusion was based on the strength of general repute. We think that the words "on the strength of general repute" merely indicate the basis of the resolution declaring him to be a tout and do not destroy its effectiveness.

If a resolution is based on general repute the court may attach less weight to it, but it cannot be said that such a resolution is legally inadmissible in evidence and cannot be taken into consideration by the court.

We are accordingly unable to interfere with the order passed in the case. The application is dismissed with costs.

MISCELLANEOUS CIVIL.

Before Mr. Justice King.

1931 *July*, 17.

CHHATARPALI AND OTHERS (PLAINTIFFS) *v.* KALAP DEI AND OTHERS (DEFENDANTS).*

Court Fees Act (VII of 1870), section 7(iv) (c)—Suit for declaration of title and appointment of receiver—Consequential relief—Omission to value consequential relief—Valuation for jurisdiction—In appeal plaintiff cannot put lower valuation—Suits Valuation Act (VII of 1887), section 8—Valuation for court fee and valuation for jurisdiction.

Suit by next reversioners for a declaration of their title as such, for a declaration that certain alienations and other transactions by the widow in possession were not binding on them, and for the appointment of a receiver in respect of a specified portion of the property. The value of this portion was Rs. 3,280. It was alleged that the widow was committing waste, but no declaration to that effect was sought. The plaintiffs valued the suit at Rs. 12,000 for the purposes of jurisdiction, but a fixed court fee of Rs. 10 was paid on each of the aforesaid reliefs. No objection was taken to the sufficiency of court fees in the trial court. The plaintiffs, having lost their suit, appealed to the High Court and there an objection was raised that the court fee was insufficient. *Held* that—

*Stamp Reference in First Appeal No. 431 of 1928.