

*Before Sir Shah Muhammad Sulaiman, Chief Justice.*

MANSA RAM (PLAINTIFF) *v.* ANCHO (DEFENDANT)\*

1933  
April, 20

*Civil Procedure Code, order VIII, rule 5—Allegation in  
plaint “not admitted” in the written statement—Amounts  
to denial—Interpretation of statutes—Punctuation marks.*

Where a defendant states in the written statement that a certain allegation in the plaint is not admitted, the effect thereof, according to a correct interpretation of order VIII, rule 5 of the Civil Procedure Code, is a denial by the defendant of that allegation.

The placing of a comma after the word “implication” and before the word “or” in order VIII, rule 5 was, no doubt, unhappy, but punctuation marks cannot control the meaning of a statute. In construing a statute a court of law is bound to read it without the commas inserted in the print.

Mr. S. B. L. Gaur, for the applicant.

Dr. N. P. Asthana, for the opposite party.

SULAIMAN, C. J. :—This is a plaintiff’s application in revision from a decree of the court of small causes. The plaintiff sued on the strength of two bonds, which were ostensibly executed after an interval of 14 months. The plaintiff, besides examining himself, produced one witness whose demeanour did not impress the court, and he did not produce the other witness who was a patwari. The defendant is an ignorant widow and she denied the execution of the bonds and the receipt of consideration. The execution and consideration were not admitted in the written statement, and on oath she emphatically denied them. The court below has held that in such circumstances it lay heavily on the plaintiff to prove the execution of the bonds and the advance of consideration for them and has then held: “In my opinion the plaintiff has failed to discharge the burden.” I am not concerned with the reasons given by the Judge for not

believing the plaintiff and his witness. The finding of fact must be accepted.

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The only other point urged on behalf of the applicant is that the plea in the written statement that the allegations contained in the plaint were not admitted was wholly insufficient under order VIII, rule 5, and that such a statement in the written statement must be deemed to be an admission of those allegations. No doubt, the placing of a comma after the word "implication" and before the word "or" in order VIII, rule 5 was unhappy, but punctuation marks cannot control the meaning of the section. In construing a statute a court of law is bound to read it without the commas inserted in the print: *Pugh v. Ashutosh Sen* (1), *Maharani of Burdwan v. Krishna Kamini Dasi* (2). I am of opinion that it could not have been intended by the legislature that where a defendant states in the written statement that a certain allegation is not admitted he shall be taken to have admitted that allegation. I think the rule should be really read as follows: "Every allegation of fact in the plaint, if not denied specifically or if not denied by necessary implication or if not stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability." If a recital in the written statement that a certain allegation is not admitted were to be deemed to be an admission, then denial by necessary implication referred to in the rule would have no meaning. I am therefore clearly of opinion that the defendant had in the written statement denied the execution and receipt of consideration when she specifically stated that she did not admit them. The application is accordingly dismissed with costs.

(1) (1928) I.L.R., 8 Pat., 516 (525).

(2) (1887) I.L.R., 14 Cal., 365 (372).