1931

DHARAM DAS v. SHANKAR AHIR.

thereon; (*c*) the reasons for the decision; and (*d*) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled." In the present case the learned District Judge should have set forth the points for determination, the decision thereon and the reasons for the decision. He has altogether failed to comply with this direction of law. The view of law which we take has been followed in *Gupta Nand* v. *Behari Lal* (1) and *Ma Saw* v. *Ma Bwin Byu* (2). For the respondent attention was invited to *Samin Hasan* v. *Piran* (3), but that case is different, because in that case the judgment in question did give brief reasons. In the judgment before us of the lower appellate court no reasons whatever are given. Accordingly we allow this appeal, set aside the decree of the lower appellate court and direct that that court do admit this appeal and dispose of it according to law. Costs hitherto incurred will be costs in the case.

Before Mr. Justice Mukerji and Mr. Justice Bennet.

MADHO RAO (APPLICANT) *v.* GUR NARAIN (OPPOSITE-PARTY)*

1931 *January*, 13.

Civil Procedure Code, section 50—*Civil death*—Sanyasi—*Judgment-debtor becoming* sanyasi—*Execution of decree.*

In section 50 of the Civil Procedure Code the word "dies" is used apparently in its natural sense and there is nothing in the section or any other portion of the Code which indicates that this word is intended to include civil death.

So, if a judgment-debtor becomes a *sanyasi* it does not necessitate the taking of proceedings in execution against the persons who would be his "legal representatives".

Mr. *R. K. Malaviya*, for the appellant.

Mr. *Baleshwari Prasad*, for the respondent.

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*First Appeal No. 45 of 1930, from a decree of Paighambar Baksh, Parganah Officer of Bharthana, District Etawah, dated the 4th of December, 1929.

(1) (1923) 21 A.L.J., 567. (2) (1926) I.L.R., 4 Rang., 66.
(3) (1908) I.L.R., 30 All., 319.

1931

MADHO RAO v. GUR NARAIN.

MUKERJI and BENNET, JJ. :—These are two execution appeals by one Chaube Madho Rao whose objection to execution proceedings has been dismissed by the lower court.

The facts are that a decree-holder, Chaube Gur Narain, obtained two decrees for arrears of profits against one Chaube Binayak Rao, one of 22nd February, 1928, which had been taken up in appeal to this Court and another of 30th May, 1926, which was not taken up in appeal. Subsequent to this, apparently, the judgment-debtor Binayak Rao became a *sanyasi* and on the 18th of August, 1928, he made an application to the Collector asking that his son should be entered for all his property and accordingly mutation was granted in favour of his son, the present appellant, Madho Rao. The decree-holder made an application on the 20th of July, 1928, for the execution of the decree, that is, his application was prior to the application of the judgment-debtor for the substitution of the name of his son. On the 23rd of August, 1928, the attachment was granted. On the 20th of July, 1929, the appellant Madho Rao made an application objecting to execution on the following grounds. He stated in his objection that he was now the absolute owner of the property in question and without his being made the heir of his father the execution proceedings could not proceed according to law and he claimed that the property had been wrongly attached. That objection has been dismissed by the execution court on the ground that as his father was alive it would be necessary for the property to be transferred by way of gift or by conveyance or by a decree of the civil court.

In appeal the learned counsel has based his argument on section 50 of the Civil Procedure Code which states: "Where a judgment-debtor dies before the

decree had been fully satisfied, the holder of the decree may apply to the court which passed it to execute the same against the legal representatives of the deceased". The learned counsel was not quite certain whether his client would claim in the capacity of legal representative of his father or not, but finally decided that he would adopt that position. The learned counsel sustained his argument by reference to various well known doctrines of Hindu law to the effect that when a man becomes a *sanyasi* he becomes dead for purposes of succession and inheritance and the persons entitled succeed to his property. That doctrine, however, is in regard to devolution of the rights of the person who becomes a *sanyasi*. The question before us is the converse and deals with the liabilities of this person. Further, the question before us is one of procedure under the Civil Procedure Code. Now section 50 uses the word "dies" apparently in its natural sense and there is nothing in the section or any other portion of the Code which indicates that this word is intended to include civil death. Civil death is in some ways different from natural death and the learned counsel has not been able to show any authority for his proposition that civil death will come under section 50 of the Civil Procedure Code.

Further, in regard to this question we may observe that in the present case it is not shown that on any definite date the judgment-debtor Binayak Rao did become a *sanyasi*. Learned counsel points to his application of the 18th of August, 1928, made before attachment in which he says that he had become a *sanyasi*, but no definite date is given and from the mere fact that he made that application it is clear that he had not at that time ceased to take an interest in the affairs of this material world and therefore he cannot at that time be said to have properly become a *sanyasi* or to have undergone civil death.

1931

MADHO RAO v. GUR NARAIN.

We consider therefore that in the present case it is not proved that the judgment-debtor did become a *sanyasi*, whether before or after attachment, or at all. These, we may mention, are some of the difficulties which would arise if this doctrine of civil death were held to come under section 50, but on the general point of law we consider that section 50 is not intended to apply to the case of civil death and accordingly we dismiss these appeals with costs.

We note that in this case the decree-holder does not admit the fact that the judgment-debtor has become a *sanyasi* and, as observed, it is not proved that he did become a *sanyasi*.

REVISIONAL CIVIL.

Before Justice Sir Shah Muhammad Sulaiman.

1931 *January*, 15.

KHUSHNUD HUSAIN (DEFENDANT) *v.* JANKI PRASAD AND ANOTHER (PLAINTIFFS)*

Civil Procedure Code, section 115—Revision—Lower court acting entirely without jurisdiction—Other remedy available—Whether High Court should interfere—Specific Relief Act (I of 1877), section 9—Summary suit for restoration of possession of agricultural holding—Jurisdiction—Civil and revenue courts.

The fact that another remedy may be open to the party seeking revision may be a ground for the refusal to exercise the discretion in a fit case, but that would not oust the jurisdiction of the High Court to interfere in cases where the court below has acted entirely without jurisdiction and the decree of the court below is *ultra vires*; the High Court would ordinarily interfere in setting it aside.

A suit brought in the civil court, under section 9 of the Specific Relief Act, in respect of an occupancy holding is not independent of the provisions of the Agra Tenancy Act relating to jurisdiction of courts. If according to the allegations in the plaint the suit is one cognizable by the

*Civil Revision No. 387 of 1930.