

ities of the appellant's property. The appellant is a person aggrieved in a large sense, but his grievance is not one which can be attended to by the appellate court upon grounds of public health, public safety and public convenience. He must, if he so chooses, seek his remedy in the ordinary civil courts. Although the Municipalities Act is an Act for local self-government, it was not and could never have been the intention of the legislature to invest the Municipal Board or the appellate authority under the Act with power to pronounce decisions upon disputes relating to private rights between private individuals or about the amenities relating thereto. This is my opinion on the reference.

On receipt of the third Judge's opinion, the original Bench sent the following answer to the reference :—

It is not open to the District Magistrate to disallow the North-west bath room of the applicant to be constructed (the applicant being the Raja of Amawan) on the ground that it detracted from the value and amenities of the appellant's property.

### APPELLATE CIVIL.

*Before Mr. Justice Mukerji and Mr. Justice Bernet.*

SRI SHEOJI MAHARAJ (DEFENDANT) v. BENI MADHO LAL AND OTHERS (PLAINTIFFS)\*

1930  
December,  
23.

*Agra Tenancy Act (Local Act III of 1926), section 249—Appeal from order—Order of remand by District Judge in appeal from decree in a suit for profits.*

Under section 249 of the Agra Tenancy Act, 1926, no appeal lies from any order passed in appeal, and therefore no appeal lies from an order of remand passed by a District Judge in appeal from a decree in a suit for profits.

Mr. *Janaki Prasad*, for the appellant.

Appeal heard under order XLI, rule 11 of the Code of Civil Procedure.

\*First Appeal No. 195 of 1930, from an order of S. Mitra, Additional District Judge of Ghazipur, dated the 5th of August, 1930.

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ABDUL  
QAYUM KHAN  
v.  
CITY BOARD  
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MUSROORH.

Sen, J.

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SRI SHEOJI  
MAHARAJ  
v.  
BENI  
MADHO LAL.

MUKERJI and BENNET, JJ. :— This purports to be a first appeal from an order passed in appeal by the learned District Judge of Azamgarh. The case was a case in a revenue court, being a suit for profits under section 227 of the Agra Tenancy Act, Act III of 1926. The appellant before us is the defendant. The lower appellate court set aside the decree of the Assistant Collector and remanded the case to the Assistant Collector for assessing profits, under order XLI, rule 23 of the Code of Civil Procedure. Under section 249 of the Agra Tenancy Act of 1926, "no appeal shall lie from any order passed in appeal." Accordingly no appeal lies to this Court. We may point out that appeals which lie to this Court under the Agra Tenancy Act of 1926 are either appeals from original decrees under section 242 or appeals from appellate decrees under section 246. The Act definitely states in section 249 that there shall be no appeal from orders passed in appeal. An order of remand is an order passed in appeal. Accordingly, the present appeal does not lie to this Court. We have also examined the merits of the case for the appellant and consider that the decision of the lower appellate court was correct. Accordingly we dismiss this appeal under order XLI, rule 11 of the Code of Civil Procedure.

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

1930  
December,  
23.

SATYA NIDHAN BANERJI (DEFENDANT) v. MUHAMMAD HAZABBUR ALI KHAN (PLAINTIFF)\*

*Agra Tenancy Act (Local Act III of 1926), sections 3(14) and 249—Appeal from order—Order of District Judge refusing to restore an appeal dismissed for default—"Decree."*

No appeal lies against an order of a District Judge refusing to restore a revenue appeal which was dismissed for default, inasmuch as the order of dismissal for default is an order passed in appeal, and section 249 of the Agra Tenancy Act,

\*First Appeal No. 219 of 1930, from an order of L. V. Ardagh, District Judge of Shahjahanpur, dated the 22nd of August, 1930.