

powers which he cannot disclaim. There is no provision in the Act which empowers a Special Judge to send back the application to the Collector for the decision of a question which should have been raised before the Collector originally but was not so raised and was subsequently raised before the Special Judge. Nor is it open to the Special Judge to question the jurisdiction of the Collector to entertain an application under section 4. The jurisdictions of the two authorities are clearly demarcated by the Act. It is the Collector who is entitled to "accept" applications under section 4 and make reference to the Special Judge. Once the application is received by the Special Judge, he has no option but to follow the procedure laid down by the Act. This is our answer to the reference.

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 MATTER OF  
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## REVISIONAL CIVIL

*Before Sir Shah Muhammad Sulaiman, Chief Justice,  
 and Mr. Justice Harries*

ANIS BEGAM AND ANOTHER (PLAINTIFFS) *v.* SHYAM SUNDAR  
 LAL (DEFENDANT)\*

1937  
 August, 17

*U. P. Agriculturists' Relief Act (Local Act XXVII of 1934), section 33—Suit by debtor for account—Not a suit for declaration—Valuation for jurisdiction—Suits Valuation Act (VII of 1887), section 9—General Rules (Civil), 1936, by High Court for subordinate courts, chapter XX, rule 28(3).*

A suit under section 33 of the U. P. Agriculturists' Relief Act is a suit for account purely, in which the plaintiff does not seek to recover any amount as a result of taking the accounts; no declaration is asked for in such a suit and it is not a suit for a declaration, although under sub-section (2) of the section the court after taking the accounts "declares" the amount still due by the plaintiff to the defendant. The valuation of such a suit for purposes of jurisdiction is governed by the rules framed by the High Court under section 9 of the Suits Valuation Act and contained in chapter XX, rule 28(3), of the amended General Rules (Civil), 1936; according to that rule

\*Civil Revision No. 364 of 1936.

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the valuation is to be such amount, between Rs.100 and Rs.500, as the plaintiff may state in his plaint.

Mr. *Waheed Ahmad Khan*, for the applicants.

Mr. *G. S. Pathak*, for the opposite party.

SULAIMAN, C.J., and HARRIES, J.:—Civil Revision No. 364 of 1936 is an application for revision of an order passed by the learned Additional Munsif of Bareilly returning a plaint, which had been filed in a suit brought by the plaintiffs under section 33 of the U. P. Agriculturists' Relief Act, for presentation to the proper court. First appeal from order No. 175 of 1936 is a plaintiffs' first appeal from an order of the learned Civil Judge of Bareilly directing a plaint to be returned to the plaintiffs for presentation to the proper court. This plaint referred to the same matter and was filed in a suit claiming the same relief as had originally been claimed in the court of the Munsif.

The matter arose in this way. The plaintiffs borrowed a sum of Rs.6,000 from the defendant upon a mortgage deed dated the 20th of December, 1929, whereby they agreed to pay interest at the rate of Re.1-2-0 per cent. per mensem. The plaintiffs were agriculturists and were consequently entitled to a reduction of interest under the provisions of the Agriculturists' Relief Act. The contract rate of interest had been paid by the plaintiffs from the date of the mortgage, and they brought the suit out of which this revision and appeal arise, claiming an account under section 33 of the U. P. Agriculturists' Relief Act.

The suit was valued by the plaintiffs at a sum of Rs.500 and it appears that the defendant took an objection and alleged that the suit was really beyond the jurisdiction of the learned Munsif. The learned Munsif came to the conclusion that the valuation placed on the suit by the plaintiffs, namely Rs.500, was a purely arbitrary valuation and that the suit was really not one for accounts but was for a declaration. He held that as the suit was for a declaration it should be

valued at at least Rs.6,000 because that was the original amount of the loan. He therefore held that he had no jurisdiction to entertain the suit and returned the plaint to the plaintiffs for presentation to the proper court.

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The plaintiffs then filed the plaint in the court of the learned Civil Judge of Bareilly and valued the suit at Rs.6,000 as suggested by the learned Munsif. They, however, did not strike out the original paragraph in the plaint which showed the valuation of the suit at Rs.500.

The defendant again took objection in the court of the learned Civil Judge and contended that as the real valuation of the suit was Rs.500, the Civil Judge had no jurisdiction to hear the case. The learned Civil Judge came to the conclusion eventually that the true valuation of the suit was Rs.500 and consequently returned the plaint to the plaintiffs for presentation to the proper court. The unfortunate plaintiffs found themselves in as bad, if not a worse, position than before. They had been directed by the learned Munsif to present the plaint to the proper court, only to find that they were again to present it before the learned Munsif.

The plaintiffs have applied to this Court in revision against the order of the learned Munsif and have appealed to this Court against the order of the learned Civil Judge.

In our view it is perfectly clear that suits under section 33(1) of the U. P. Agriculturists' Relief Act are not suits for declaration but are suits for an account of money. Sub-section (1) of section 33 reads: "An agriculturist debtor may sue for an account of money lent or advanced to, or paid for, him by any person, or due by him to any person as the price of goods or on a written or unwritten engagement for the payment of money, and of money paid by him to such person." Quite clearly under sub-section (1) of section 33 the

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plaintiffs in this case were suing for an account. In sub-section (2) of section 33 the word "declare" is used, and it was for this reason that the learned Munsif came to the conclusion that the suit was one for declaration. Sub-section (2) reads: "In such suit the court shall follow the provisions of chapter IV of this Act and the provisions of the Usurious Loans Act, 1918. It shall, after taking necessary accounts, declare the amount which is still payable by the plaintiff to the defendant, and shall on the application of the defendant, and if the money is payable, pass a decree in favour of the defendant." What this sub-section enjoins the court to do is to take the account which the plaintiff has asked for, and then after taking the account to declare what is due. The suit is a suit for account purely and no declaration is asked for. All that the court declares is what is due from one party to the other after the account has been taken. In our judgment the learned Munsif was clearly wrong in holding that the suit was in substance a suit for a declaration and that it should be valued as such. In our view the suit was one for accounts and therefore should be valued as a suit for accounts.

The learned Civil Judge was of the opinion that a suit under section 33 was a suit for account, and that it should be so valued, and in our view he came to a correct conclusion.

Having held that the suit was one for account, it must then be decided what valuation is to be placed on such a suit. This has now been decided by the amended General Rules (Civil), published in the Government Gazette dated 11th January, 1936. Chapter XX, rule 28 of the amended rules provides:

"The following rules have been framed with the previous sanction of the Local Government, under the powers conferred by section 9 of the Suits Valuation Act, 1887, and all other powers in that behalf, for determining the value of the subject-matter of certain

classes of suits for the purpose of jurisdiction, which do not admit of being satisfactorily valued, and for the treatment of such classes of suits, as if their subject-matter were of the value as hereinafter stated.”

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Sub-section (3) of this rule provides: “Suits in which the plaintiff in the plaint asks for accounts only, not being suits to recover the amount which may be found due to the plaintiff on taking unsettled accounts between him and the defendant, or suits of either of the kinds described in order XX, rule 13 of the Code of Civil Procedure” are to be valued “for the purposes of the Suits Valuation Act, 1887, at such amount exceeding Rs.100, and not exceeding Rs.500, as the plaintiff may state in the plaint.”

As we have stated, this suit under section 33 of the Agriculturists' Relief Act is a suit for accounts only and not a suit for accounts together with a claim to what may be found due on taking such account. The plaintiffs in the present case merely asked for accounts; and, therefore, it should have been valued as provided by the amended General Rules, to which we have referred. In our view it was open to the plaintiffs to value the suit at any sum between Rs.100 and Rs.500. They in fact valued it at Rs.500 and that should have been accepted by the learned Munsif as the true valuation of the suit. They valued it correctly within the amended General Rules (Civil); and that being so, the learned Munsif had jurisdiction to entertain the suit and should not have returned the plaint to the plaintiffs. Quite clearly as the learned Munsif had jurisdiction to hear the suit, the learned Judge was right in returning the plaint presented to his court and directing that it should be presented to the proper court.

It has been argued that as an appeal lies to the District Judge from the order of the learned Munsif, we should not interfere in revision. As no appeal lay from the order to this Court, this Court has power to interfere in revision, and we think this is a suitable case for such interference.

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The result, therefore, is that First Appeal from order No. 175 of 1936 fails and is dismissed. The application in revision No. 364 of 1936 must succeed, and we set aside the order of the learned Munsif, and direct him to accept the plaint and to proceed with the suit and to hear and determine the same according to law. The whole of the difficulty in these cases was caused by the defendant, who raised questions of jurisdiction in both the courts. In our view the plaintiffs should have the costs of Civil Revision No. 364 of 1936, and in First Appeal from order No 175 of 1936 each party should bear their own costs.