

claim against the respondent solely and a declaration was the only relief that he could possibly obtain against the Secretary of State for India. In our judgment the plaintiff was not bound to join the court of wards who was in possession in order to dispose of the whole matter in this suit. He could, if he desired, bring proceedings against the respondent alone and in those proceedings he claimed the only relief that he could possibly obtain. In this case it cannot be said that the plaintiff was able to seek against the Secretary of State for India in Council further relief than a mere declaration of title and had omitted so to do. For these reasons we are satisfied that the plaintiff's suit was not barred by reason of section 42 of the Specific Relief Act.

No other point was urged before us in this appeal on behalf of the plaintiff and for the reasons which we have given we see no ground for interfering with the decree passed by the learned Civil Judge. The result, therefore, is that this appeal is dismissed with costs.

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BHAGWAN
BAKSH
SINGH
v.
THE SECRETARY OF
STATE FOR
INDIA IN
COUNCIL

REVISIONAL CIVIL

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

JAMUNA PRASAD AND ANOTHER (PLAINTIFF) v. BHAWANI
DAYAL (DEFENDANT)*

1937
April, 2

*U. P. Agriculturists' Relief Act (Local Act XXVII of 1934),
section 7—Applies to suits filed before the Act—Passing of
ex parte decree, subsequently set aside, before the Act is
immaterial—Jurisdiction—Forum.*

Section 7 of the U. P. Agriculturists' Relief Act is applicable to suits instituted before the Act came into force, and the fact that an *ex parte* decree, subsequently set aside, was passed in the suit before the Act came into force is immaterial.

Mr. Shiva Prasad Sinha, for the applicants.

Mr. K. L. Misra, for the opposite party.

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 JAMUNA
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 DAYAL.

SULAIMAN, C.J. and BENNET, J.:—This is an application in revision from an order of the Judge of the Small Cause Court of Azamgarh ordering the plaint to be returned for presentation to the proper court. The suit had been originally instituted on the 2nd of January, 1935, on the basis of a promissory note dated the 29th of December, 1931, executed by the defendant in favour of the plaintiff for Rs.150 carrying interest at 2 per cent. per mensem compounded six monthly. The defendant has been found to be an agriculturist. First the plaintiff succeeded in obtaining an *ex parte* decree on the 13th of February, 1935, but the defendant got the decree set aside on showing good cause for his non-appearance. The case was accordingly restored to its original number on the file on the 12th of September, 1935. The defendant then pleaded that he is an agriculturist and that therefore the court has no jurisdiction to entertain the claim as neither he resides within the local limits of the jurisdiction of the court, nor does his holding lie within such jurisdiction. The plaintiff admitted that the defendant was an agriculturist. The court below has accordingly accepted the argument of the defendant and held that it has no jurisdiction to try the suit.

In revision it is contended before us that section 7 of the United Provinces Agriculturists' Relief Act cannot apply to a case where the suit had been instituted before the Act came into force, particularly where an *ex parte* decree had once been secured. It seems to us that the mere fact that there was an *ex parte* decree passed at an earlier stage is wholly irrelevant because that decree was set aside and the suit has now been restored to its original number. Nor does it appear to us that the proper interpretation to be put on section 7 is that the court has jurisdiction to try a suit if it is filed after the passing of the U. P. Agriculturists' Relief Act. That section provides that notwithstanding anything contained in any other enactment for the time being

in force, every suit for recovering an unsecured loan in which the defendant . . . is an agriculturist shall be *instituted and tried* in a court within the local limits of whose jurisdiction etc. It seems to us that the intention of the legislature is that no court should have jurisdiction to entertain a suit when it is filed or to try it unless the conditions mentioned in that section are fulfilled. The Act is professedly for the relief of agriculturists. The object of the section apparently is that an agriculturist defendant should not be dragged to a distant place for the purpose of defending a claim brought against him and that such suit should be tried and decided by a court within whose jurisdiction he either resides or within whose jurisdiction his property is situated, if he resides outside the province. We think that the view taken by the court below is correct.

The revision is dismissed with costs. The court below will return the plaint to the plaintiff for presentation to the proper court.

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 JAMUNA
PRASAD
v.
BHAWANT
DANAI

 APPELLATE CIVIL

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

SHEO SHANKAR DAS AND ANOTHER (DEFENDANTS) v.
MUHAMMAD HASAN (PLAINTIFF)*

 1937
April, 6

U. P. Agriculturists' Relief Act (Local Act XXVII of 1934), section 2(2), first proviso and explanation VII—"Agriculturist" for the purpose of chapter V—Limits of amounts of local rate or land revenue paid, whether applicable.

The definition of an "agriculturist" for the purpose of proceedings under chapters IV and V of the U. P. Agriculturists' Relief Act is completely governed by the first proviso to section 2(2) of the Act and is not affected by the explanations appended to the section. There is nothing in explanation VII to suggest that it was intended to apply to matters falling under

*First Appeal No. 6 of 1937, from a decree of Kali Das Banerji, Civil Judge of Jaunpur, dated the 14th of July, 1936.