

1882

RASIK LAL  
v.  
GAJRAJ  
SINGH.

we take of the matter, the present suit was abundantly in time, and the appeal must be allowed. As the lower appellate Court disposed of the case upon the preliminary point of limitation, it must be remanded for trial on the merits under s. 562 of the Procedure Code. The costs of this appeal will be costs in the cause.

*Cause remanded.*

1882  
May 1.

## CIVIL JURISDICTION.

*Before Mr. Justice Straight and Mr. Justice Brodhurst.*

MAKUND LAL (DEFENDANT) v. NASIR-UD-DIN (PLAINTIFF).\*

*Small Cause Court suit—Claim for personal property and to set aside order disallowing objection to its attachment—Jurisdiction—Act XI of 1865, s. 6.*

A suit to recover moveable property attached in execution of a decree and damages for its wrongful attachment, and to set aside the order disallowing an objection to its attachment, is not a suit cognizable in a Court of Small Causes.

THE plaintiff in this suit sued in the Court of Small Causes at Saháranpur for possession of a cart, which the defendant had attached as the property of one Nabi Bakhsb, his judgment-debtor, and damages for its wrongful attachment. He also claimed to have the order disallowing his objection to the attachment of the cart set aside. The defendant set up as a defence to the suit that the cart did not belong to the plaintiff, but to Nabi Bakhsb. The Small Cause Court Judge found that the cart belonged to the plaintiff, and that the plaintiff had not suffered any damage from the attachment of the cart; and accordingly gave the plaintiff a decree for the cart, dismissing the claim for damages.

The defendant applied to the High Court for the revision under s. 622 of the Civil Procedure Code of this decree, on the ground that the suit, being one against a decree-holder to establish a right to property attached in execution of his decree, was not cognizable in a Court of Small Causes.

Babu *Oprokush Chandar Mukarji*, for the defendant.

Pandit *Nand Lal*, for the plaintiff.

\* Application, No. 47 of 1882, for revision under 622 of Act X of 1877 of a decree of Maulvi Maqúd Ali Khan, Judge of the Court of Small Causes at Saháranpur, dated the 25th August, 1881.

The Court (STRAIGHT, J., and BRODHURST, J.) delivered the following judgment :—

STRAIGHT, J.—We think that this petition for revision is a well founded one and should prevail. The suit is not for the possession of personal property, pure and simple, as mentioned in s. 6, Act XI of 1865, but the further relief is prayed that the order in execution disallowing the plaintiff's objection in respect of the property now claimed may be set aside. We do not think the suit was cognizable by the Small Cause Court, and allowing this application with costs, we quash the proceedings therein and direct that the plaint be returned to the plaintiff for presentation to the proper Court.

*Order accordingly.*

---

## CRIMINAL JURISDICTION.

*Before Mr. Justice Straight.*

EMPRESS OF INDIA *v.* NATHU KHAN.

*Forest-offence—Confiscation—High Court, powers of revision under s. 297 of Act X of 1872 (Criminal Procedure Code)—Act VII of 1878 (Forests Act), ss. 54, 56, 58.*

No order confiscating forest-produce which is the property of Government in respect of which a forest-offence has been committed is necessary or can be made. All that need be done is to direct a forest-officer to take charge of such forest-produce.

An order directing the confiscation of forest-produce not belonging to Government, in respect of which a forest-offence has been committed, can only be made at the time the offender is convicted.

The High Court is competent under s. 297 of Act X of 1872 to revise an order made by a District Judge under s. 58 of the Forests Act, 1878, on appeal from the order of a Magistrate made under s. 54 of that Act, the jurisdiction of the High Court under s. 297 of Act X of 1872 not being expressly taken away by s. 58 of the Forests Act, 1878.

THIS was an application for revision under s. 297 of the Criminal Procedure Code of an order of Mr. F. Giles, Assistant Superintendent of Dehra Dún, and Magistrate of the first class, dated the 15th July, 1881, and of the order of Mr. R. M. King, Sessions Judge of Saháranpur, confirming the Magistrate's order. The applicant, it appeared, was entitled under a contract with Government to take the dry timber in certain forests situate in the Dún. Having taken green timber, he was on the 14th May, 1881, convicted by the Assistant Superintendent under s. 25 of the Forests

1882

---

MAKUND LAL  
v  
NASTH-  
UD DIN.

---

1882  
May 4.