

postponed till the money advanced under them had been repaid. The lower appellate Court finds this; for the Judge writes:—
 “They (the bonds) would seem to have been intended as burdens upon the land, without payment of the stamp-duty for a formal mortgage-deed.” The justice of charging the land for payment of the principal sum due under the Rs. 45 bond (bond C) is admitted in the plaint; the lower appellate Court has included that amount in its decree; and the bond for Rs. 24 (bond D) seems to stand on precisely the same footing.

That the respondent, who seeks to redeem the entire mortgage, trusting, of course, to being able to compel the other mortgagors, or their representatives, to contribute in the future, is in no better position as regards the equity of redemption than the mortgagors themselves, seems to be so plain as not to need arguing. “He who seeks equity must do equity;” and it would seem to me unjust and inequitable to set aside in this case the obligation contained in the bonds, and to declare a representative of some of the mortgagors entitled to re-entry on mere payment of the original mortgage-loans. I would decree the appeal with costs.

STRAIGHT, J.—I concur in the order proposed by my honorable colleague.

Appeal allowed.

CIVIL JURISDICTION.

Before Mr. Justice Straight and Mr. Justice Duthoit.

HARSARAN SINGH (PLAINTIFF) v. MUHAMMAD RAZA AND OTHERS
 (DEFENDANTS).*

Rejection of application to appeal as a pauper—High Court, powers of revision of—Act X. of 1877 (Civil Procedure Code), ss. 592, 622.

An application for permission to appeal as a pauper was presented, not by the applicant personally, but by his pleader, and was on that ground rejected. Held, on an application to the High Court for revision, that s. 622 of Act X. of 1877 did not apply to a proceeding of so purely an interlocutory a character as mentioned in s. 592, and such application therefore could not be entertained.

This was an application to the High Court by one Harsaran Singh for the exercise of its powers of revision under s. 622 of Act

* Application, No 47 of 1881, for revision under s. 622 of Act X of 1877 of an order of M. S. Howell, Esq., Judge of Jaunpur, dated the 28th February, 1881.

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X of 1877. On the 24th February, 1881, Harsaran Singh applied by his pleader to the District Judge of Jaunpur for permission to appeal as a pauper against a decree of the Subordinate Judge of Jaunpur dismissing a suit brought by him for possession of certain immoveable property. The District Judge rejected this application on the 28th February, 1881, on the ground that, under ss. 404 and 592 of Act X of 1877, such an application could not be presented by a pleader but must be presented personally. Harsaran Singh applied to the High Court to revise the District Judge's order under s. 622 of Act X of 1877, on the ground that the District Judge was wrong in holding that a pauper appeal must be presented by the appellant in person; and that, assuming that he was right in so holding, he should in this case have allowed time for the personal appearance of the applicant.

Munshi Hanuman Prasad, for the applicant.

Mr. Colvin, for the opposite party.

The judgment of the Court (STRAIGHT, J., and DUTHOIT, J.,) was delivered by

STRAIGHT, J. — We are clearly of opinion that this application was inadmissible and cannot be entertained. S. 622 of the Civil Procedure Code does not in our judgment apply to a proceeding of so purely an interlocutory character as that mentioned in s. 592. The application is rejected with costs.

Application rejected.

APPELLATE CIVIL

Before Mr. Justice Tyrrell and Mr. Justice Duthoit.

SHADAL KHAN (PLAINTIFF) v. AMIN-UL-LAH KHAN (DEFENDANT).¹

Res judicata — “Same parties.”

M, in 1866, brought a suit against *A*, her son *S*, *B* and *C*, who like her all claimed a right to inherit the estate of *K* deceased, for her share by inheritance in *K*'s estate, alleging that she had been lawfully married to him. She only denied *A*'s right to inherit, who claimed as *K*'s adopted son; admitting the right of *S*, who claimed as her lawful son by *K*, and that of *B* and *C*, who claimed as wife and daughter respectively of *K*. *S* supported his mother's claim. *A*, *B*,

¹ Second Appeal, No. 154 of 1881, from a decree of H. G. Keene, Esq., Judge of Meerut, dated the 30th November, 1880, reversing a decree of Rai Bakhtawar Singh Subordinate Judge of Meerut, dated the 21st August, 1880.

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