

1880

RAO LAL

BEHARI
SINGH.

was admitted without amendment, and shows that sufficient care is not exercised in the examination of plaints.”

In the present case there was the less reason for having recourse to such a fiction, seeing that the land is now and was at the institution of the suit in the hands of the defendants.

The judgment of the lower appellate Court is affirmed, and the present appeal is dismissed with costs.

1880

December 4.

Before Mr. Justice Spankie and Mr. Justice Straight.

IN THE MATTER OF THE PETITION OF SRIMATI PADDO SUNDARI DASÍ.*

Act XXVII of 1860, ss. 5, 6—Certificate for collection of Debts—Security—Appeal.

No appeal impugning the order of a District Court requiring security from the person to whom it has granted a certificate, under Act XXVII of 1860, lies under that Act to the High Court. *In the matter of the petition of Rubmin* (1) followed.

THE facts of this case are sufficiently stated for the purposes of this report in the judgment of the High Court.

The *Junior Government Pleader* (Babu *Dwarkanath Banarji*), for the appellant.

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

SPANKIE, J.—A certificate under Act XXVII of 1860 was applied for by Srimati Paddo Sundari Dasi, and an order was made in her favour. But in consequence of the Judge's requirement that she should deposit security to the full value of Company's paper (Rs. 20,000) belonging to the estate of the deceased Prasanno Chandar Singh, whereas the applicant was merely permitted to draw the interest, and security to cover that would have been sufficient, the certificate did not issue. The applicant, Srimati Sundari Dasi, has filed an appeal from the Judge's order. It, however, appears that there is no appeal from the order of the Judge in respect of the amount of security to be

* First Appeal, No. 123 of 1880, from an order of W. C. Turner, Esq., Judge Agra, dated the 26th May, 1880.

taken from the person to whom a certificate may be granted. Under s. 6 of Act XXVII of 1860, the granting of a certificate may be suspended by an appeal to this Court which may declare the party to whom the certificate should be granted, or may direct such further proceeding for the investigation of the title as it shall think fit; or it may, upon petition after a certificate has been granted by the District Court, grant a fresh certificate in supersession of the certificate granted by the District Court. But there the powers of this Court stops. In the case—*In the matter of the petition of Rukmin* (1)—a Division Bench of this Court took this view, following a previous ruling of this Court to the same effect in *Soonea v. Ram Sahu* (2), which is also supported by a decision of the Presidency Court in *Monmohinee Dasi v. Khetter Gopal Dey* (3) referred to in the case of *Rukmin*. At the same time, though we cannot entertain the appeal, we think it right to add that, if the facts are as stated by the applicant, it may well be the case that the District Court is demanding security to a larger amount than is necessary, and on a fresh application to the Judge that officer would probably reconsider his order. We dismiss the appeal; as there is no respondent, no order need be made as to costs.

1880

IN THE MAT-
TER OF THE
PETITION OF
SRIMATI
PADDO
SUNDARI
DASI.

Appeal dismissed.

FULL BENCH.

1881
March

Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Pearson, Mr. Justice Spankie, Mr. Justice Oldfield, and Mr. Justice Straight.

IN THE MATTER OF DAULATIA AND ANOTHER.

Convictions of several offences—Maximum term of punishment—Act X of 1872 (Criminal Procedure Code), ss. 314, 453, 454—Joinder of charges.

Where a person who is accused of several offences of the same kind is tried for each of such offences separately by a Magistrate, the aggregate punishment which such Magistrate can inflict on him in respect of such offences is not limited to twice the amount which he is by his ordinary jurisdiction competent to inflict, but such Magistrate can inflict on him for each offence the punishment which he is by his ordinary jurisdiction competent to inflict.

A person accused of theft on the 1st August and of house-breaking by night in order to steal on the 2nd August, both offences involving a stealing from the

(1) I. L. R., 1 All., 287. (2) H. C. R., N.-W. P., 1870, p. 146.

(3) I. J. R. 1 Calc. 127.