

## FULL BENCH.

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March 17.

*Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Straight,  
Mr. Justice Oldfield, Mr. Justice Brodhurst, and Mr. Justice Tyrrell.*

MADHO PRAKASH SINGH AND ANOTHER (DEFENDANTS) v. MURLI  
MANOHAR AND ANOTHER (PLAINTIFFS).\*

HIRA SINGH (PLAINTIFF) v. MAKUND SINGH (DEFENDANT).†

*Application of the Civil Procedure Code to suits in the Revenue Courts—  
Act XII of 1881 (N.-W. P. Rent Act)—Civil Procedure Code, ss. 43, 373—  
Suit, withdrawal of—Relinquishment of part of claim.*

*Held* by the Full Bench (STUART, C. J., dissenting) that the Courts of Revenue in the North-Western Provinces, in those matters of procedure upon which the Rent Act of those Provinces (Act XII of 1881) is silent, are governed by the provisions of the Civil Procedure Code.

The principle of decision in *Nilmoni Singh Deo v. Taranath Mukerjee* (1) followed.

*Held* therefore that the procedure provided by ss. 43 and 373 of the Civil Procedure Code is applicable to suits tried under the N.-W. P. Rent Act, 1881.

THE suit out of which Second Appeal No. 173 of 1882 arose was one for arrears of rent, instituted under Act XVIII of 1873 (N.-W. P. Rent Act), in the Court of an Assistant Collector of the second class. The Assistant Collector dismissed the suit. On appeal by the plaintiffs the Collector gave them a decree for a part of the money claimed. The defendants appealed to the District Court from the Collector's decree. It was contended in that Court on their behalf as follows:—"This claim was once previously brought in Court by the plaintiffs, and after the defendants' answer to the plaint, the plaintiffs, on the 23rd October, 1880, withdrew their claim without permission to bring a fresh suit: therefore this suit cannot be again instituted, according to s. 373, Act X of 1877." The District Judge disallowed this contention for reasons which it is not necessary to state; and affirmed the decree of the Collector.

\* Second Appeal No. 173 of 1882, from a decree of J. H. Prinsep, Esq., Judge of Cawnpore, dated the 22nd December, 1881, affirming a decree of H. C. Barstow, Esq., Collector of Cawnpore, dated the 28th March, 1881, modifying a decree of Munshi Zamin Ali Khan, Assistant Collector of the second class, dated the 9th February, 1881.

† Second Appeal No. 323 of 1882, from a decree of C. W. P. Watts, Esq., Judge of Aligarh, dated the 19th December, 1881, reversing a decree of R. Hollingberry, Esq., Assistant Collector of Aligarh, dated the 19th July, 1881.

In second appeal by the defendants it was again contended on their behalf that the plaintiffs having formerly withdrawn the suit, without the permission of the Court to bring a fresh one, were precluded from bringing it again under the provisions of s. 373 of the Civil Procedure Code. The Divisional Bench before which the appeal came (BRODHURST and MAHMOOD, JJ.) referred the question raised by this contention, *viz.*, "whether the procedure sanctioned by s. 373 of the Civil Procedure Code, for the withdrawal of civil suits, is applicable also to suits tried under the Rent Act," to the Full Bench.

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The suit in which Second Appeal No. 328 of 1882 arose was also one under the N.-W.P. Rent Act (Act XII of 1881) for arrears of rent for 1285 fasli. The Assistant Collector trying it gave the plaintiff a decree. On appeal by the defendant to the District Court it was contended on his behalf that, inasmuch as at the time of the institution of a suit previously brought by the plaintiff against the defendant for arrears of rent for 1284 fasli, the rent for 1285 fasli which the plaintiff now claimed had fallen due, and the plaintiff might have claimed it, the present claim for that rent was barred by the provisions of s. 43 of the Civil Procedure Code. The District Judge allowed this contention, and dismissed the suit.

The plaintiff appealed to the High Court, contending that s. 43 of the Civil Procedure Code was not applicable to suits in Revenue Courts. This appeal (S.A. No. 328 of 1882) came for hearing before the same Divisional Bench as S A. No. 173 of 1882, and the learned Judges of that Bench (BRODHURST and MAHMOOD, JJ.), having regard to the reference made by them in S.A. No. 173, referred to the Full Bench the question "whether the provisions of s. 43 of the Civil Procedure Code, and the procedure of that Code generally, are applicable to suits under Act XII of 1881."

Mr. *Howell* and Babu *Baroda Prasad Ghose*, for the appellants.

Pandit *Bishambar Nath*, for the respondents, in S.A. No. 173.

Munshi *Hanuman Prasad* and *Sukh Ram*, for the appellant.

Pandit *Ajudhia Nath*, for the respondent, in S.A. No. 328.

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The following opinions were delivered by the Full Bench :—  
STRAIGHT, OLDFIELD, BRODHURST, and TYRRELL, JJ.—The references in Second Appeals 173 and 328 of 1882 may be conveniently disposed of together. In No. 173 we are asked whether the provisions of s. 373 of the Civil Procedure Code are applicable to suits under the Rent Act, and in No. 328, whether s. 43 and the procedure of the Civil Code generally are to be followed by the Revenue Courts. In substance, the question put to us comes to this, are the Revenue Courts in those matters of procedure upon which the Rent Act is silent, bound by the rules of procedure contained in the Civil Procedure Code, as coming within the description of Courts of Civil Judicature? Upon turning to the Rent Act, it is to be observed, that Chapter VI deals with the procedure in suits up to judgment Chapter VII with execution of decrees, and Chapter VIII with appeal, re-hearing and review, so that as far as it goes the Act may be said to declare its own procedure. Such provisions as there are are obviously shaped on the basis of the Civil Procedure Code, though a very slight examination will show them to be incomplete and inexhaustive; for example — except in the special matter mentioned in s. 149 — no directions are given as to the mode in which a decree is to be drawn up, or if defective, how it is to be amended. Nor in execution is any power conferred on the Revenue Courts to transfer their decrees for execution into a foreign jurisdiction. Again, there is no prohibition in terms to the repetition of suits or the splitting of demands, as forbidden by ss. 13 and 43 of the Civil Code, though we can scarcely suppose it would be seriously contended, that the principle of law recognised by the first mentioned section should not be equally binding in rent as in all other cases. We then have to consider whether Revenue Courts are Courts of Civil Judicature within the meaning of the Civil Procedure Code. For if they are, then, unless in terms exempted by that Code itself, they would, in all matters except those in which special procedure is provided in the Rent Act, be governed by the law of the Civil Code. Upon this question of exemption, it is important to notice the change that was made in s. 4 of Act X. of 1877 by s. 4 of Act XII, of 1879, or as now of Act XIV of 1882. By s. 4 of Act X of 1877 it was provided that “nothing herein contained shall be deemed to affect any local law prescribing a

special procedure for suits between landlord and tenant," and this saved Act XVIII of 1873 in terms. But s. 4 of Act XII of 1879, or as now of Act XIV of 1882, has made a most material alteration, and it is now enacted, that "nothing herein contained shall be deemed to affect any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or Lieutenant-Governor in Council, prescribing a special procedure for suits between landholders and their tenants or agents." Such being the language of the present saving clause of the Civil Code now in force, it was argued before us, that the North-Western Provinces Rent Act, 1881, not having been passed under the Indian Councils Act, 1861, by a Governor or Lieutenant-Governor in Council, but by the Governor-General in Council, was not exempted from the operation of the Civil Procedure Code in those matters, upon which special procedure is not to be found within its own four corners. The argument is an ingenious one, and it cannot be said that the difference in terms of s. 4 of Act X of 1877 and Act XIV of 1882 is merely a formal one. Moreover, it is to be remembered, that the change made in the last mentioned Act was under the authority of the same Legislative Council that had passed the Rent Act of 1881, more than a year after that Act had come into operation. Are Revenue Courts then Courts of Civil Judicature? and for the purpose of answering this question, we do not think we can do better than refer to a recent ruling of the Privy Council in *Nilmoni Singh Deo v. Taranath Mukerjee* (1). There the Deputy Commissioner of Manbhūm, exercising the powers of a Revenue Court, had ordered two decrees passed by him in rent suits under Act X of 1859 to be transferred for execution into another district. The High Court of Calcutta in revision held that the Deputy Commissioner had no power under Act X of 1859 to make such transfer, and its decision was appealed to the Privy Council. Their Lordships in the course of the judgment, remarking on certain sections of Act X of 1859, particularly s. 77, which corresponds with s. 148 of Act XII of 1881, say—"It must be allowed that in those sections there is a certain distinction between the Civil Courts there spoken of and the Rent Courts

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(1) I. L. R., 9 Calc. 295.

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established by the Act, and that the Civil Courts referred to in s. 77 and the kindred sections, mean Civil Courts exercising all the powers of Civil Courts, as distinguished from the Rent Courts, which only exercise powers over suits of a limited class. In that sense there is a distinction between the terms; but it is entirely another question whether the Rent Court does not remain a Civil Court in the sense that it is deciding on purely civil questions between persons seeking civil rights, and whether, being a Civil Court in that sense, it does not fall within the provisions of Act VIII of 1859. It is hardly necessary to refer to those provisions in detail, because there is no dispute but that, if the Rent Court is a Civil Court within Act VIII of 1859, the Collector has, under s. 286, the power of transferring his decrees for execution into another district." Later on their Lordships observe: "But when we look at the provisions of the Act (X of 1859), it is clear that they go beyond the trial of such questions, and provide for the execution of decrees. At the same time the scope of the Act appears to be only to provide for the execution of the decrees of the Collector within his jurisdiction. There is nothing in the Act which provides for any execution beyond his jurisdiction, and there is nothing to forbid the conclusion that such executions are left to the operation of Act XXXIII of 1852, or the corresponding portion of Act VIII of 1859." The substantial result arrived at by their Lordships was, that the decision of the High Court of Calcutta was set aside, and the orders of the Deputy Commissioner, transferring his decrees for execution outside his own jurisdiction, were restored. Now, when we compare our present Rent Act XII of 1881 with the old Rent Act X of 1859, which applied to the whole of Bengal, we find a strong similarity in the provisions, and s. 139 of the former Act is almost identical with s. 77 of the latter, to which their Lordships make reference in the judgment from which we have quoted above. Equally in both Acts is to be found a series of clauses dealing with the procedure to be followed in suits in execution of decree and in appeal, and equally in both Acts is there an entire absence of any section conferring on Revenue Courts a power analogous to that given by s. 284 of Act VIII of 1859, and s. 223 of the present Civil Code. It would therefore seem that the ruling of the Privy Council

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to which we havẽ referred is as applicable in the one case as in the other, and it would appear to follow from it, that though a Revenue Court has no power under the Rent Act now in force to transfer its decree for execution into another jurisdiction, yet that it may do so under the provisions of the Civil Procedure Code. Had s. 4 of Act X of 1877 been left standing in its original shape, the special exemption therein given "to any local law prescribing a special procedure for suits between landlords and tenants" would, as we have already said, have saved the Rent Act of these Provinces from the operation of the Civil Code; but looking at s. 4 of Act XIV of 1882 and to the principle of the decision of the Privy Council, to which we have been referring, no such reservation can be held any longer to exist. We may refer once more to that judgment of their Lordships in which the following instructive passage occurs:—"The consequence of holding, as the High Court have held, is, that wherever Act X of 1859 applies, persons seeking their rent against a tenant who is insolvent in the district in which he is sued, have absolutely no remedy against him, though he may be possessed of great wealth in another district. No reason has been assigned, or so much as suggested, why such a distinction should exist between a person who is claiming a debt, founded on rent, and a person who is claiming a debt, founded on any other transaction. The distinction does not exist in any other part of India, neither indeed does it exist in those provinces of Bengal in which Act X. of 1859 has been repealed, and the Bengal Act VIII of 1869 has taken its place. Therefore, although it is not impossible that the Legislature should have intended to establish in Manbhūm and adjacent districts a distinction between claims for rent and all other claims which does not exist elsewhere, it requires very clear and cogent evidence on the face of the enactments to support the conclusion that they really do intend such a distinction." Again, further on it is said: "Suits for the recovery of rent are civil suits or proceedings, and nothing can be clearer on the face of this Act (XXXIII of 1852, which was substantially repealed by Act VIII. of 1859) than that the Legislature intended that everybody, who obtained a decree in a Court of Justice, should have a remedy against his debtor, wherever the property of that debtor might be."

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Now it is to be observed that s. 34 of Act VIII of 1869, an Act of the Lieutenant-Governor of Bengal in Council, which superseded Act X of 1859 and is the Rent Law now in force in Lower Bengal, specifically incorporates the rules of the Civil Procedure Code for the time being, and makes them applicable to rent suits, probably because by that Act itself the cognizance of rent suits was transferred from the Collectorate Courts, hitherto empowered under Act X of 1859, to the Civil Courts. Hence the exemption of s. 4 of Act X of 1877 would have been virtually inoperative as regards them. Consequently down to the passing of s. 4 of Act XII of 1879 the anomaly existed of the Courts of Lower Bengal having jurisdiction in suits between landlord and tenant following one procedure, and those of these Provinces another, the latter obviously being of an incomplete and inexhaustive kind. As far as we are aware there is no such difference between these two parts of the country and the tribunals respectively dealing with questions arising between landlord and tenant therein, as to necessitate such a distinction in the rules of practice to be adopted, and it may well be that this was the view which presented itself to the minds of those who introduced the change that was imported into the law by s. 4 of Act XII of 1879. The view that the Revenue Courts are not the less Civil Courts, because only of the fact that their jurisdiction is limited to suits connected with the revenue and rent of the land, is fortified by the consideration that in a large number of these suits, appellate jurisdiction being exercised in reference to them by the regular Civil Courts, the decrees to be drawn up and executed are necessarily the decrees of Civil Courts of Judicature. If then, as the Privy Council seems to have ruled in the case already referred to, by the analogy between Act X. of 1859 with VIII of the same year, and of XII of 1881 with XIV. of 1882, that Revenue Courts are Civil Courts, and that for the purpose of enforcing their decrees, where their own special procedure does not empower them, they may resort to the provisions of the Civil Code relating to execution, it would appear we should hold in regard to the present reference, that the Revenue Courts, being within the general description of Civil Courts, and in this sense, unless in terms exempted, subject to the procedure of the Civil Code, save in so far as special procedure is to be found in the Rent

Act itself, are in their general procedure in other respects to be governed by the rules of the Civil Code. As we have already said, looking to the terms of s. 4 of Act XIV of 1882, which followed Act XII of 1881, and the remarks of their Lordships of the Privy Council in the case from which we have so largely quoted, we find ourselves constrained to arrive at this conclusion. We may, however, add, that, though the principle we are approving seems at first sight a novel one, in the interest of convenience, uniformity and regularity of practice, it is well that the Revenue Courts should be governed by the Civil Procedure Code, and as a striking illustration of this, the two ss. 43 and 373, more particularly mentioned in the referring order, embody rules of procedure, the justice and propriety of which cannot for a moment be questioned. We must therefore answer this reference by saying that the Revenue Courts of these Provinces in those matters of procedure upon which the "Rent Act" is silent are governed by the provisions of the Civil Procedure Code.

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STUART, C. J.—I entirely dissent from the opinion recorded by the other Judges of the Court in this reference. It is, in my judgment, wholly mistaken, and its reasoning is to a great extent based on considerations, which are beyond the domain of judicial exposition. The question they proposed to themselves is, "are the Revenue Courts in those matters of procedure upon which the Rent Act is silent, *bound* by the rules of procedure which govern the Courts of Civil Judicature?" And in answering this question, they distinctly conclude that in such matters of procedure the Revenue Courts "are *governed* by the provisions of the Civil Procedure Code," adding, however, before announcing this conclusion, "we may, however, add that, *though the principle we are approving* seems at first sight a *novel* one, in the interest of convenience, uniformity and regularity of practice, it is *well* that the Revenue Courts *should* be governed by the Civil Procedure Code." Now with great deference this is really the language of legislation, and not of judicial exposition. It is one thing to say that it is convenient and fitting that the Revenue Courts should in their practice, and so far as their procedure is not expressly provided in the Rent Act, follow the Procedure Code; but it is quite another thing to

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say that these Courts are "governed," that is, legally bound in all respects, by the provisions of the Civil Procedure Code, in the same way and to the same extent that the Procedure Code governs and binds the Civil Courts. The reasoning which seeks to derive help from the consideration that Revenue Courts are, as regards their general character, Civil Courts, utterly fails in the attempt to show that they are Civil Courts within the meaning of the Code of Civil Procedure, for on looking at Act XIV of 1882, the last of the Procedure Codes, it will be found that the Civil Courts or Courts of Civil Judicature are defined in such a way as to exclude the idea of Revenue Courts being contemplated by any of its provisions. Thus Act XIV of 1882 is entitled "an Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature." Then in s. 2 it is declared that "in this Act 'district' means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a 'District Court') and includes the local limits of the ordinary civil jurisdiction of a High Court." Then again "Collector" means "every officer performing the duties," not, be it observed, "of a Judge of a Revenue Court," but "of a Collector of land revenue." Then "decree" means "the formal expression of an adjudication upon any right claimed or defence set up in a Civil Court"—the words "any right" of course signifying any "civil right,"—and the term "order" means "the formal expression of any decision of a Civil Court which is not a decree as above defined." These definitions, I think, show clearly that the expressions "Civil Court" or "Court of Civil Judicature" are to be interpreted in a limited and technical sense, as the only Civil Courts to which the Code of Procedure applies, as the law of procedure by which they are governed or bound.

The argument in favour of the opposite view based on s. 4 of the Procedure Code appears to me to be quite irrelevant. It goes too far, for if the meaning of the exemption of the four Courts mentioned be that we are to infer that the Code of Procedure was to apply to the Revenue Courts, we are forced, by parity of reasoning, to conclude that the intention of the section was, that the Procedure Code was to apply to all other Courts whatever, whether having a procedure of their own or not, except these four, which

surely no one could maintain. And in my view it is an assumption of the most violent kind to lay down that, because the rent Act of these Provinces is not expressly mentioned in s. 4, that therefore and thereby the whole or any part of the Code of Civil Procedure is imported into the Rent Act, and that in a legally coercive and binding sense, even if we had not other considerations leading to the opposite conclusion.

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The Revenue Courts have, in Chapters VI, VII and VIII of the Rent Act, a procedure of their own, and a procedure which was evidently very carefully considered, and it is probable that the framers of the Rent and Revenue Acts had, when drawing up such procedure, present to their minds the provisions of the Civil Procedure Code; but instead of arguing from that circumstance that they intended the general adoption by the Revenue Courts of the Code of Procedure, I would reason in a wholly contrary direction, *vis.*, that the very fact of the framers of the Acts in question having had the Civil Code of Procedure before them when drawing up their own procedure, shows that they intended something different, and to exclude, at least not expressly to include, all other provisions to be found in the Code. If they had meant otherwise, nothing could have been easier than to have incorporated the whole Civil Procedure into the practice of the Revenue Courts by a single sentence, and such appears to be the legislative practice when such is the intention. An instance of this may be found in s. 34 of the Lower Bengal Rent Act VIII of 1869 (B.C.), which is in these terms:—"Save as in this Act is otherwise provided, suits of every description brought for any cause of action arising under this Act, and all proceedings therein, shall be regulated by the Code of Civil Procedure passed by the Governor-General in Council, being Act VIII of 1859, and by such further and other enactments of the Governor-General in Council in relation to Civil Procedure as now are, or from time to time may be, in force; and all the provisions of the said Act and of such other enactments shall apply to such suits." Now the absence of any such provision in the Rent Act of these Provinces appears to me to indicate very significantly the intention of the Legislature to exclude from the latter any such or corresponding civil procedure, even if we had not the fact,

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to which I have already alluded, that our present Rent Law very carefully prescribes the procedure to be followed in suits up to judgment, in execution of decrees, and in appeals from decrees in suits, and also to applications for a re-hearing and for review of judgment. The Bengal Rent Act of 1869 was passed by the Bengal Council, but it must have been known to, and must have been before, the Supreme Council which passed our Rent Act of 1873, and it cannot, I think, be supposed that the latter Council intended to effect by their silence the same purpose which was accomplished by the Bengal Council by means of express words. I think that in all probability the framers of the three Chapters I have mentioned, VI, VII, and VIII, had in their minds, and were in fact very much guided by corresponding provisions in the Code of Civil Procedure. But it is to be observed that throughout these procedure Chapters the Code of Civil Procedure is never once named or referred to under that designation, with one or two peculiar exceptions, which only, to my mind, still more clearly show that there was no intention to import other provisions of the Code as such. These exceptions are to be found in ss. 92, 96(*d*), 132, 139, 145 and 162 of the Rent Act. S. 92 prescribes the punishment for resisting the process of the Revenue Court, this punishment being "according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of Courts of civil justice." Then s. 96(*d*) provides that:—"In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same power, in regard to contempts, resistance and the like, as may be lawfully exercised by the Civil Courts in execution of their own decrees." Then again, s. 132 provides for the examination of parties or their agents, which examination "shall be according to the law for the time being in force relative to the examination of witnesses in the Civil Courts." Then s. 139 provides that the law and rules for the time being in force relating to the evidence of witnesses, &c., "in cases before the Civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this (the Revenue) Act." Then the second clause of s. 145 provides that the orders in force in the "Civil Courts relative

to local inquiries by Amins or Commissioners shall apply to any local inquiry made by any officer under this section," but in the next sentence of this section it is significantly added, "and *so far as they* (that is, the rules of the Civil Courts as to inquiries by Amins or Commissioners) *are applicable*, to inquiries made by the presiding officer of the Court in person." The only other section of the Rent Act I can find which specially adopts the procedure of the Civil Code is s. 162, by which it is provided that no process of execution shall be issued after the lapse of three years from the date of the judgment, unless the judgment be for a sum exceeding Rs. 500, "in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Court."

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There are also corresponding provisions in the Revenue Act XIX of 1873, with likewise special adoption of the enactments of the Civil Procedure Code, such, for example, as are to be found in ss. 113, 114, 115, 212, and 233. These sections of the Revenue Act, as well as those I have referred to in the Rent Act, are instances and illustrations of the exceptional adoption of the procedure of the Civil Courts, and I think that, by reason of their specially supplementary character, they lend considerable force to the opinion that Chapters VI, VII, and VIII embody the main procedure rules contemplated by the Rent Act, and that there was no intention to import, and certainly not in any absolute or binding form, the whole of the other provisions of the Code of Procedure.

Let me ask those who maintain the opposite opinion, how the Code of Civil Procedure is to be *enforced* in the Revenue Courts? For, excepting as to the extent and effect of the adoption of the provisions of the Civil Procedure Code to which I have adverted, there is not a word throughout the Act which could warrant a Revenue Court in making any coercive use of such procedure. Nay, could this Court, even in cases where we can be appealed to, *compel* the Revenue Courts to conduct their business in such a manner? We could not, and for the very simple reason that we have no machinery for the purpose, that is, there is no coercive machinery in that behalf common to both the Revenue and Civil Courts, and this Court could not enforce its orders on the Revenue Courts without

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coming into collision with the Board of Revenue as the superior revenue authority. And as to any argument in favour of the importation into the practice of the Revenue Courts of the Civil Code in its entirety, or in any supplementary sense, to be derived from the circumstance that in certain cases there is an appeal to the District Judge and to the High Court, I would suggest that, in regard to such appeals, the Courts referred to are not merely Civil Courts, but in such cases they are rather Courts acting within their revenue jurisdiction, and when so acting of course carrying with them their own procedure, although even then I doubt very much whether the High Court could, to the extent suggested, introduce, by force of its own authority, any portion of the Code of Procedure which is not clearly incorporated in the Rent Act. But be that as it may, it is a very different thing to hold that the effect of there being an appeal in certain cases to the District Civil Court and the High Court is necessarily to make the Code of Civil Procedure part and parcel of the procedure of the Revenue Courts. To conclude so would be to reason in a manner too high-handed and arbitrary.

The considerations which I have thus explained are to my mind most convincing, and I do not hesitate to answer these references in the negative—that is, that the procedure provided by ss. 43 and 373 of the Civil Procedure Code, and by the Code of Civil Procedure generally, is not applicable to suits triable under the Rent Act. That is my undoubted and most decided opinion as matter of law, but of course the revenue authorities may adapt the practice of their Courts to the procedure of the Civil Code, and so far as our judicial authority is concerned, we shall only be too glad to encourage them in such orderly practice, but we cannot *compel* them, and that is the test. I have only to add that the authorities on which my colleagues appear to rely do not in my opinion apply to the present case, and the judgment of the Privy Council from which they so largely quote has to my mind no bearing on this reference. The mischief and its consequences dealt with in that judgment require no consideration in the present case, and the expression "Civil Court" in s. 284 of Act VIII of 1859 is perhaps large enough to include Revenue Courts, or any other Courts adjudicating in civil matters, as distinguished from military or other similar tribunals.