

# THE INDIAN LAW REPORTS, LUCKNOW SERIES

## REVISIONAL CIVIL.

*Before Sir Louis Stuart, Knight, Chief Judge, and  
Mr. Justice Wazir Hasan.*

RANI BISENI BHUWAN RAJ KUER (PLAINTIFF-APPLICANT) *v.* MINOR SON OF MADHO SINGH (DEFENDANT-OPPOSITE PARTY).\*

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*Civil Procedure Code, section 115—Oudh Courts Act (Local Act IV of 1925), section 7—Revision against an order of a single Judge of the Chief Court of Oudh sitting on the original side.*

Where an application for revision was filed against an order passed by a single Judge of the Chief Court refusing under order XXXII, rule 7 of the Code of Civil Procedure, to sanction a compromise, *held*, that the court of a single Judge of the Chief Court of Oudh sitting to hear and determine a suit of which the value was more than five lakhs of rupees as provided by section 7 of the Oudh Courts Act (Local Act IV of 1925) is not a court subordinate to the Chief Court which is the High Court referred to therein and therefore no revision lies against his order.

*Per HASAN, J. :—Held*, that it is impossible to construe the words "any court subordinate" in section 115 of the Code of Civil Procedure so as to include the court which is presided over by a Judge of the Chief Court of Oudh.

Messrs. *Bisheshwar Nath Srivastava and Girja Shankar*, for the applicant.

Mr. *Raj Narain Shukla*, for the opposite party.

STUART, C. J. :—I propose to deal very shortly with this application. Before it is granted it would

*Stuart,  
C. J.*

\* Civil Revision No. 106 of 1926, against the order, dated the 1st of November, 1926, of Mr. Justice Gokaran Nath Misra, Judge of the Chief Court of Oudh, rejecting the petition of the defendant's guardian for sanction to the compromise entered into *inter partes*.

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be necessary for this Bench to find that the application is against (1) the decision of a case which (2) has been decided by (3) a court subordinate to the High Court and in which (4) no appeal lies, if, (5) the said court has exercised a jurisdiction not vested in it by law, or (6) has failed to exercise a jurisdiction so vested, or (7) has acted in the exercise of its jurisdiction illegally, or (8) with material irregularity. I propose to consider this application only from one point of view.

Stuart,  
C. J.

It is an application for revision of an order passed by a single Judge of the Chief Court refusing under order XXXII, rule 7, to sanction a compromise which had been presented before him, the refusal being based upon his finding that the compromise was not for the benefit of the minor on whose behalf sanction was asked. I find it sufficient to say that, in my opinion, the court of a single Judge of the Chief Court sitting, as this Court was sitting, to hear and determine a suit of which the value was more than five lakhs of rupees as provided by section 7 of Local Act IV of 1925, is not a court subordinate to the Chief Court which is the High Court referred to therein. Upon this finding the application fails and I would dismiss it with costs. I do not propose to go into any other point.

Hasan, J.

HASAN, J. :—This application is laid under section 115 of the Code of Civil Procedure from the order of our learned brother Mr. Justice GOKARAN NATH MISRA, dated the 1st of November, 1926, sitting in the exercise of the original jurisdiction of this Court. The jurisdiction which he has so exercised is conferred on the Chief Court by the provisions of section 7 of the Oudh Courts Act, 1925. It will be noticed that that jurisdiction is conferred on the court as a whole and not on any particular Judge or class of Judges of the same court. In this case it has

so happened that the Hon'ble the CHIEF JUDGE, in exercise of his powers conferred by section 11, subsection (2) of the same Act, had determined that our brother Mr. Justice GOKARAN NATH MISRA shall sit alone for the purpose of deciding the case out of which this matter in revision has arisen. It follows from what has just now been stated that our learned brother, sitting for the purpose of deciding this particular case, is still a member of the Chief Court. Section 10 of the same Act provides that except in certain cases the jurisdiction of the Chief Court may be exercised by a single Judge of the Court. It is, therefore, clear that our learned brother is exercising the jurisdiction of the Chief Court when he is sitting for the purpose of the determination of the case now being tried by him. This being the status of the learned Judge, from whose order this application in revision has been presented, it is impossible to construe the words "any court subordinate" in section 115 of the Code of Civil Procedure so as to include the court which is presided over by our learned brother Mr. Justice GOKARAN NATH MISRA. This is sufficient to dispose of this application. I therefore agree that the application should be dismissed with costs.

By THE COURT.—The application is dismissed with costs.

*Application dismissed.*

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