

MISCELLANEOUS CIVIL

Before Mr. Justice Bisheshwar Nath Srivastava and
Mr. Justice E. M. Nanavutty

JIWAN LAL AND OTHERS (APPLICANTS) v. PROPERTY OF
RAM RATAN AND OTHERS (OPPOSITE-PARTY)*

1936
February, 29

Agent's power to argue and plead for principal—Civil Procedure Code (Act V of 1908), section 3(15) and Order III, rule 1.

A recognized agent as such has no right of audience and cannot be allowed to argue and plead for his principal. *Hurchand Ray Gobourdhan Das v. The Bengal-Nagpur Railway Company (1)*, followed.

Mr. *Murari Lal*, for the opposite-party.

SRIVASTAVA and NANAVUTTY, JJ.:—This is an application in Miscellaneous Appeal No. 37 of 1934, praying that his special agent Munshi Shiam Bihari Lal be allowed to argue the appeal on his behalf. Order III, rule 1 of the Code of Civil Procedure provides that “any appearance, application or act” in any Court may be made or done by a recognized agent. The words quoted above, in our opinion, mean no more than that he can appear, make applications and take such steps as may be necessary in the course of the litigation for the purpose of the case of his principal being properly laid before the Court. We think that they cannot justify a recognized agent being allowed to argue and plead. It may be noted that section 3, clause (15) of the Code of Civil Procedure defines a “pleader” as meaning “any person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court”. It is significant that the word “plead” has not been used in Order III, rule 1 of the Code of Civil Procedure. The absence of that word in this rule seems clearly to imply that it was not intended that a recognized

*Civil Miscellaneous Application No. 755 of 1935, filed in First Miscellaneous Appeal No. 37 of 1934, against the order of Babu Bhagwati Prasad, Subordinate Judge, Lucknow, dated the 28th of July, 1934.

(1) (1914) 19 C.W.N., 64.

1936
 JIWAN LAL
 v.
 PROPERTY
 OF RAM
 RATAN

Srivastava
 and
Nanavutty,
 JJ.

agent should be allowed to plead for his principal. We also feel that if such a practice were countenanced, the result of it would be to allow unqualified persons under the garb of special agents to assume the roll of pleaders and begin regular practice as such. This view also appears to be supported by the decision of JENKINS, C.J., and N. R. CHATTERJI, J. *Hurchand Ray Gobourghan Das v. The Bengal-Nagpur Railway Company* (1), in which it was held that a recognized agent as such has no right of audience.

For the above reason we disallow this application.

Application dismissed.

REVISIONAL CIVIL

*before Mr. Justice Bisheshwar Nath Srivastava
 and Mr. Justice E. M. Nanavutty*

1936
 February, 13

BEHARI (DEFENDANT-APPLICANT) v. RAJA SYED AHMAD ALI
 KHAN (PLAINTIFF-OPPOSITE-PARTY)*

Provincial Small Cause Courts Act (IX of 1887), Schedule II, clauses (8) and (13)—Suit by owner of bazar for theka money against purchaser of right to collect dues from bazar, if cognizable by Small Cause Court—Clauses (8) and (13), Schedule II, Small Cause Courts Act, applicability of.

A suit by the owner of a bazar for arrears of *theka* money against a person who had purchased at an auction the right to collect the dues from the bazar on payment of a fixed sum of money every year is not covered by clauses (8) and (13) of the Second Schedule of the Small Cause Courts Act and is cognizable by the Small Cause Court. Clauses (8) and (13) refer to suits against persons who actually occupy or use the land or other property for which they are liable to pay rent or "*malikana*" and "*haq*" etc., but have no application to the case of a person who has purchased the right to collect the dues from a bazar and who holds an intermediate position between the owner and the occupier of the land.

*Section 25 Application No. 11 of 1935, against the decree of Saiyid Khurshed Husain, Judge, Small Cause Court, Lucknow, dated the 20th of December, 1934.