

## REVISIONAL CIVIL

Before Mr. Justice Bisheshwar Nath Srivastava, Chief Judge  
and Mr. Justice E. M. Nanavutty

1936  
November, 23

LALA GAURI SHANKAR (APPLICANT) v. GANGA BAKHSH  
SINGH (OPPOSITE-PARTY)\*

*United Provinces Agriculturists' Relief Act (XXVII of 1934), sections 2(2)(a) to (h), 4 and 30—Instalments in the case of an agriculturist under section 2(2)(a) to (h), if can go beyond four years—Unsecured loan—Interest which can be allowed on unsecured loans—Costs allowed in a decree, if can be reduced—Future interest—Decree not allowing future interest—Future interest, if can be allowed subsequently.*

In the case of an agriculturist falling under clauses (a) to (h) of the definition given in section 2(2), United Provinces Agriculturists' Relief Act the period of instalments which could be fixed in the decree standing against him cannot extend beyond four years and so an order of the court making the decretal amount payable in instalments extending over a period of 12 years is without jurisdiction. *Girwar Singh v. Ramman Lal* (1), followed.

On an unsecured loan taken before the Act came in force compound interest with yearly rests is payable at the rate of 9 per cent. instead of  $6\frac{1}{2}$  per cent.

The provisions contained in the Agriculturists' Relief Act for amendment of decree contemplate relief in two forms: (1) by reduction of interest, and (2) by payment in instalments. There is no provision allowing the court authority to make any reduction either in the principal money or in the amount of costs allowed under the decree and so an order reducing the amount of costs proportionate to the reduction made in the amount of interest is unjustified.

There is no provision authorising the Court to allow future interest in cases in which no such interest has been allowed by the original decree.

Mr. B. K. Mathur, for the applicant.

Mr. H. N. Misra, for the opposite party.

SRIVASTAVA, C.J. and NANAVUTTY, J.:—This is an application in revision under section 115 of the Code of Civil Procedure against the order, dated the 8th of

\*Section 115 Application No. 31 of 1936, against the order of Saiyid Shaukat Husain, Civil Judge, Mohanlalganj, Lucknow, dated the 8th of November, 1935.

November, 1935, of the learned Civil Judge of Mohanlalganj passed on an application under sections 5 and 30 of the Agriculturists' Relief Act.

On the 19th of July, 1934, the Civil Judge of Mohanlalganj passed a simple money decree in favour of the decree-holder applicant against the opposite party on foot of two promissory notes for Rs.1,950 on account of principal, Rs.938-5 on account of interest and Rs.304-4 on account of costs = total Rs.3,192-9. No future interest was allowed but the decretal amount was made payable in six half-yearly instalments. It was admitted that the first two instalments of Rs.532-1-6 each had been paid to the decree-holder before the making of the present application under the Agriculturists' Relief Act.

The lower court has amended the decree by reducing the interest of  $13\frac{1}{2}$  per cent. per annum with half-yearly rests which was provided in the two pro-notes to  $6\frac{1}{2}$  per cent. per annum with yearly rests. He has also reduced the amount decreed for costs proportionate to the reduction in the amount of interest. He has further ordered that the decretal amount will be payable in 12 annual instalments of equal amounts and that future interest will be allowed to the decree-holder at  $3\frac{1}{2}$  per cent. per annum.

The counsel for the parties are agreed before us that the Government revenue paid by the judgment-debtor is below Rs.1,000 per annum and that he falls under clause (a) of sub-section (2) of section 2 of the United Provinces Agriculturists' Relief Act. It has been held by a Bench of this Court in *Girwar Singh v. Ramman Lal* (1), that in the case of an agriculturist falling under clauses (a) to (h) of the definition given in section 2(2), United Provinces Agriculturists' Relief Act the period of instalments which could be fixed in the decree standing against him cannot extend beyond four years. The order of the lower court making the decretal

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amount payable in instalments extending over a period of 12 years is therefore without jurisdiction.

The counsel for the judgment-debtor also admits that the rate of interest allowed by the lower court at  $6\frac{1}{2}$  per cent. with yearly rests is incorrect. The loan in this case being unsecured compound interest with yearly rests was payable at the rate of 9 per cent. instead of  $6\frac{1}{2}$  per cent. allowed by the lower court. The interest allowed by the lower court must be modified accordingly.

It has further been contended on behalf of the applicant that the lower court had no jurisdiction to reduce the amount of costs allowed in the original decree. We think that the contention is correct and must succeed. The provisions contained in the Agriculturists' Relief Act for amendment of decrees contemplate relief in two forms: (1) by reduction of interest and (2) by payment in instalments. We are not aware of any provision allowing the court authority to make any reduction either in the principal money or in the amount of costs allowed under the decree. This application, as already mentioned, was made under sections 5 and 30 of the Agriculturists' Relief Act. Section 5 gives the court power to fix instalments after the passing of the decree but it does not contain any provision for any reduction in the amount of the decree. Section 30 provides only for reducing the amount decreed on account of interest. In the circumstances we are of opinion that the order reducing the amount of costs proportionate to the reduction made in the amount of interest cannot be supported.

Lastly our attention has been drawn by the learned counsel for the opposite party to the illegality of the order allowing future interest when no such interest was allowed in the decree. The contention is supported by the decision of the Bench in *Girwar Singh v. Ramman Lal* (1), to which reference has been made

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above. The counsel for the decree-holder is unable to refer us to any provision authorising the court to allow future interest in cases in which no such interest has been allowed by the original decree. So this part of the lower court's order must also be set aside.

The result therefore is that the rate of interest is modified to 9 per cent. instead of  $6\frac{1}{2}$  per cent. per annum with yearly rests. The decretal amount thus arrived at after giving credit to the judgment-debtor for Rs.1,064-3 and any other sum which might have been paid subsequent to the order of the lower court shall be payable in four annual instalments of equal amount, the first of these instalments being payable on 31st January, 1937. In default of payment of any two instalments the entire unpaid decretal amount shall fall due at once. The order reducing the amount of costs and allowing future interest is set aside. In the circumstances we make no order as to costs.

*Appeal allowed.*

## REVISIONAL CRIMINAL

*Before Mr. Justice E. M. Nanavutty*

RAM BALI AND ANOTHER (APPLICANTS) *v.* KING-EMPEROR  
(COMPLAINANT-OPPOSITE PARTY)\*

1936  
November, 24

*Indian Penal Code (Act XLV of 1860), section 447—Platform containing Congress flag ordered to be demolished—Accused standing on platform to prevent Congress flag from being removed—Accused, if guilty of criminal trespass under section 447, Indian Penal Code.*

Where the object of the accused in standing on the *chabutra*, which the Chairman of the Municipal Board wanted to demolish, was to prevent the Congress flag from being removed, their conduct in remaining near their flag cannot be said to have been actuated with an intent to insult, intimidate or annoy the Chairman of the Municipal Board and they cannot

\*Criminal Revision No. 111 of 1936, against the order of S. M. Ahmad Karim, Sessions Judge of Fyzabad, dated the 7th of July, 1936.

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