

doubtful whether this explanation is true, and in any case we do not consider that it would justify such a long delay.

The lower court admitted that the respondent was putting in new claims which he was precluded from doing under section 9 of the Encumbered Estates Act, and we do not consider in the circumstances that the reasons given for allowing the amendment are sufficient.

We accordingly allow this appeal, set aside the order passed by the Special Judge of the first grade and disallow the application made by the respondent for the amendment of his written statement. The appellant will recover his costs in this appeal from the respondent.

The appellant applied to this court twice for an order of stay of proceedings in the court of the Special Judge, first grade, but this application was not allowed, it being considered that he would not be prejudiced if these proceedings were allowed to continue. The effect of the order now passed on this appeal will be that the decree awarded by the Special Judge against the appellant will be modified in so far as it is based on the deeds with which this judgment is concerned, the amount being reduced accordingly together with the costs allowed.

Appeal allowed.

REVISIONAL CIVIL

*Before Mr. Justice A. H. de B. Hamilton and Mr. Justice
J. R. W. Bennett*

BABU GANESHI LAL (DECREE-HOLDER-APPLICANT) v.
CHATTAR PAL SINGH AND OTHERS (JUDGMENT-
DEBTORS-OPPOSITE-PARTIES)*

United Provinces Encumbered Estates Act (XXV of 1934), section 7—United Provinces Agriculturists' Relief Act (XXVII of 1934), section 3(4)—Section 7 of the Encumbered Estates Act whether over-rides section 3(4) of the Agriculturists' Relief Act.

Section 7 of the Encumbered Estates Act overrides section 3(4) of the Agriculturists' Relief Act.

*Section 115 Application No. 19 of 1938, for revision of the order of Pandit Girja Shankar Misra, Additional Civil Judge of Unao, dated the 23rd November, 1937.

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NAZIR
HASAN
KHAN
v.
GANGA
DIN

Ziaul
Hasan,
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and
Bennett,
J.

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BABU
GANESHI
LAL
v.
CHATTAR
PAL
SINGH

Messrs. S. N. Roy and K. L. Nigam, for the applicant.

Mr. Ajodhia Prasad Singh, for the opposite party
no. 1.

HAMILTON and BENNETT JJ.:—This is an application in revision against a decision of the Additional Civil Judge of Unao that proceedings for final decree shall be stayed.

The decree-holder applicant had obtained a preliminary decree against the judgment-debtors opposite parties on the 15th December, 1934, and time for payment to avoid foreclosure expired on the 15th June, 1935. The decree-holder, however, did not apparently apply for a final decree then and on the 10th August, 1935, the first judgment-debtor presented an application under the Agriculturists' Relief Act so that the original decree was amended under section 5 on the 22nd October, 1935, by fixing eight instalments of which the first was due in May, 1936. It was provided that in the case of three defaults the decree-holder could apply for making the decree final and on the 5th July, 1937, he made this application. Judgment-debtor 1 objected that he had applied under the Encumbered Estates Act and the proceedings must be stayed under section 7 of that Act and, therefore, the court could not grant a final decree. The court upheld his contention and passed the order which is the subject of the appeal.

The decree-holder relies on section 3(1) of the Agriculturists' Relief Act which lays down that when instalments are in arrears the decree-holder may, notwithstanding the provision of any law for the time being in force, immediately enforce payment of the whole amount then remaining due under the decree, and in the case of a decree for sale or foreclosure apply that a final decree shall be passed. His contention is that the words "notwithstanding the provisions of any law for the time being in force" will override section 7 of the Encumbered Estates Act which stays all pending proceedings in respect of any public or private debt and

prevents the institution of fresh suits or other proceedings. Section 3 of the Agriculturists' Relief Act came into force on the 30th April, 1935, the same date on which the Encumbered Estates Act came into force but the latter Act did not then contain section 7. This section in its present form and in its present place came into force on the 18th July, 1935, when the United Provinces Encumbered Estates (Amendment) Act, 1935, was passed so that section 7 of the Encumbered Estates Act is subsequent to section 3(4) of the Agriculturists' Relief Act. The Legislature may pass a law which overrides or repeals an already existing law, but the Legislature cannot pass a law which prevents itself subsequently passing a new law which overrides or repeals laws previously existing. We must hold, therefore, that section 7 of the Encumbered Estates Act overrides section 3(4) of the Agriculturists' Relief Act and not the contrary and that therefore, the decision of the learned Civil Judge was correct.

The application is, therefore, dismissed with costs.

Application dismissed.

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BABU
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*Hamilton,
and
Bennett,
J.J.*