

entered into in the course of execution proceedings, which was duly recorded, has been enforced" and they are not of opinion that the practice, which is both widespread and inveterate, is contrary to the Code. They are of opinion that in the present case the compromise can and should be enforced in these execution proceedings.

They will humbly advise His Majesty that this appeal should be allowed, the decree of the Chief Court set aside and the order of the Subordinate Judge dated the 26th November, 1932, restored. The respondents must pay the costs of the appellants in the Chief Court and of this appeal: in addition, the appellants will have liberty to add these costs, if unpaid, to their security.

Solicitors for the appellant: *Hy. S. L. Polak & Co.*

Solicitors for the respondents: *Nehra & Co.*

REVISIONAL CIVIL.

Before Mr. Justice G. H. Thomas, Chief Judge

PUTTOO LAL (DEFENDANT-APPLICANT) *v.* EWAZ ALI AND
ANOTHER (PLAINTIFFS-OPPOSITE PARTY)*

1938

Small Cause Court suit—Judgment in a Small Cause Court suit necessary contents of—Civil Procedure Code (Act V of 1908), order XX, rule 4.

August, 3

Where the judgment of a Small Cause Court does not show what the suit or the defence is but simply says that the suit is decreed with costs it is not a judgment according to law.

Under order XX, rule 4 of the Code of Civil Procedure, the judgment of a Court of Small Causes must contain the points for determination and the decision thereon. The Judge is expected to apply his mind to the decision of a Small Cause Court case as carefully as he would apply his mind to the decision of a regular suit. The Judge need not write lengthy judgment. He can reduce his remarks to a minimum, but this minimum must be intelligible, so as to enable the High Court in revision to satisfy itself whether the decree or order passed by the Judge is according to law.

*Section 25 Application No. 6 of 1938, against the order of Mr. Ganai Shankar Varma, Judge, Small Cause Court, Lucknow, dated the 15th of December, 1937.

1938

POTTOO
LAL
v.
EWAZ ALI

Thomas, C.
J.

Mr. *Hargovind Dayal Srivastava*, for the applicant.

Mr. *P. N. Asthana*, for the opposite party.

THOMAS, C.J.:—This is an application in revision under section 25 of the Small Cause Courts Act against the judgment and decree of Mr. G. S. Varma, Judge, Small Cause Court, Lucknow, dated the 15th of December, 1937.

The plaintiff sued to recover Rs.40-8 being the price of wood sold to the defendant. The defendant pleaded payment. The suit was contested by the defendant. The claim was decreed by the learned Judge of Small Cause Court. I find there is no judgment according to law in this case. The order is as follows:

“Suit is decreed Rs.55-8 with costs. Rs.7-8 are disallowed for excessive damages claimed.”

It is impossible to treat this order as the judgment of the court. Under order XX, rule 4(1) of the Code of Civil Procedure, the judgment of a Court of Small Causes must contain the points for determination and the decision thereon. The Judge is expected to apply his mind to the decision of a Small Cause Court case as carefully as he would apply his mind to the decision of a regular suit. Under order XX, rule 4 of the Code of Civil Procedure, a Judge in a Small Cause Court suit need not write lengthy judgments. He can reduce his remarks to a minimum, but this minimum must be intelligible, thus enabling the High Court in revision to satisfy itself whether the decree or order passed by the learned Judge was according to law. The order of the learned Judge does not show what the suit or the defence was in this case. I would have sent back this case to the court concerned for writing a judgment according to law, but the learned Judge, who tried the case, is no longer a Judge of Small Cause Court.

I accordingly allow the application with costs, set aside the judgment and decree, and order a retrial of the case.

Application allowed.

APPELLATE CIVIL

Before Mr. Justice G. H. Thomas, Chief Judge and
Mr. Justice Ziaul Hasan

RADHA RAWAN PRASAD (JUDGMENT-DEBTOR-OBJECTOR-
APPELLANT) v. RAJENDRA PRASAD AND OTHERS
(DECREE-HOLDERS-RESPONDENTS)*

1938

August, 8

*Civil Procedure Code (Act V of 1908), sections 47 and 68—
Execution of decree—Decree sent to Collector for execution—
Sale by Collector—Objection to sale on ground of fraud,
whether covered by section 47—Objection, whether entertain-
able by executing Court or by Collector—Judgment-debtor
minor—Minor attaining majority during execution proceed-
ings—Duty of informing Court of judgment-debtor's attain-
ing majority, whether on minor or on decree-holder.*

Where a minor judgment-debtor attains majority in the course of execution proceedings, it is for him to inform the court that he had come to age, and the failure of the decree-holders to notify the fact to the court does not constitute a fraud on their part. *Lanka Sanyasi v. Lanka Lakshman Naidu* (1), and *Seshagiri Rao v. Hanumantha Rao* (2), relied on.

The question that a sale in execution of a decree was brought about by fraud is a question relating to execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, and the objection on that point can be entertained by the court which sent the decree for execution to the Collector. *Wahid-un-nissa v. Girdhari* (3), *Marahmat Husain v. Oudh Commercial Bank Ltd.* (4), and *Prosunno Goomar Sanyal v. Kasi Das Sanyal* (5), referred to.

Messrs. *Hyder Husain and Bhuwani Shankar*, for the appellants.

Mr. *Kashi Prasad Srivastava*, for the respondents.

THOMAS, C. J. and ZIAUL HASAN, J.:—This is an execution of decree appeal against an order of the learned Civil Judge of Gonda rejecting the appellant's objections brought under section 47 of the Code of Civil Procedure.

*Execution of Decree Appeal No. 38 of 1935, against the order of Mr. Gauri Shankar Varma, Civil Judge of Gonda, dated the 25th of March, 1935.

(1) (1928) I.L.R., 51 Mad., 763. (2) (1916) L.L.R., 99 Mad., 1031.
(3) (1905) I.L.R., 27 All., 702. (4) (1931) A.L.J., 166.
(5) (1891-92) L.R., 19 I.A., 166.