

working out of an administration decree, but it cannot be suggested that that is the only possible way of working out the administration decree; for the decree which has been passed by the court can well be carried into execution although the learned District Judge has directed the share of Mahmudul Haque to be made over to him.

I can see nothing wrong in the order passed by the learned District Judge and would dismiss this application with costs.

COUTTS, J.—I agree.

*Application dismissed.*

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## REVISIONAL CIVIL.

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*Before Coutts and Das, J.J.*

QAZI SYED MUHAMMAD AFZAR

v.

MANKUMAR MAHTON.\*

1922.

MUSSAMMAT  
DULHIN SONA  
KOER

v.  
SAFYED SHAH  
MAHMUDUL  
HAQUE.

DAS, J.

1922.

May, '16.

*Code of Civil Procedure, 1908 (Act V of 1908), section 151—consolidation of suit, whether consent of parties necessary to.*

A Court has inherent power to consolidate suits and, therefore, the consent of the parties is not necessary for such consolidation.

*Kali Charan Dutt v. Suraj Kumar Mondal*(1), approved.

Application by the plaintiff.

The facts of the case material to this report are stated in the judgment of Coutts, J.

*Siveshwar Dayal*, for the applicants.

*Bimola Charan Sinha*, for the opposite party.

COUTTS, J.—This is an application in revision against an order of the Subordinate Judge of Patna,

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\* Civil Revision No. 7 of 1922, against an order of Babu L. Patnaik, Subordinate Judge of Patna, dated the 6th January, 1922.

(1) (1912-13) 17 Cal. W. N. 526.

1922.

QAZI SYED  
MUTHAMMAD  
AFZAR  
v.  
MANKUMAR  
MAHTON.  
COURTS, J.

consolidating two suits. It is not contended that the learned Subordinate Judge had not jurisdiction under section 151, Code of Civil Procedure, to consolidate the suits; and that he has such jurisdiction has been held not only in this Court but in other High Courts in India, and I may refer particularly to the case of *Kali Charan Dutt v. Suraj Kumar Mondal* <sup>(1)</sup>, where this matter was very fully considered. It is contended, however, that the jurisdiction under section 151 cannot be exercised without the consent of parties. No authority has been adduced in support of this contention and I am unable to accept it. It seems clear that if the court has jurisdiction to consolidate under section 151 it must have that jurisdiction without the consent of parties. If this were not so it would not have inherent jurisdiction to consolidate at all, for consent of parties cannot confer a jurisdiction that does not exist.

It is not for us in revision to consider whether in this particular case consolidation should have been allowed or not, but I may remark that, in my opinion, the court has exercised its jurisdiction wisely. I would accordingly dismiss this application with costs.

DAS, J.—I agree.

*Appeal dismissed.*

## LETTERS PATENT.

*Before Dawson Miller, G. J. and Courts, J.*

RIJAN THAKUR

v.

CHARITAR THAKUR.\*

1922.

May, 19.

*Appeal—copy of judgment, necessity of filing.*

Where separate appeals are preferred in the High Court by several appellants from one decision each memorandum of

\* Civil Review No. 3 of 1922.

(1) (1912-13) 17 Cal. W. N. 526.