

turn round afterwards and say, there is no evidence in support of the issue, the initial burden of proving it was upon you and therefore your case must fail, if in fact the point has never been taken from the beginning and no issue has been raised upon it. In my opinion the learned Judge of this Court was quite right in the decision which he arrived at and this appeal should be dismissed with costs.

ADAMI, J.—I agree.

Appeal dismissed.

APPELLATE CIVIL.

Before Jwala Prasad and Bucknill, J.J.

LACHMAN LAL PATHAK

v.

BALDEO LAL THATWARI.*

Code of Civil Procedure, 1908 (Act V of 1908), section 60(f)—jatri bahi, whether attachable or saleable.

The *jatri bahi* of a Gayawal is not liable to attachment or sale in execution of a decree.

Lachman Lal Pathak v. Baldeo Lal Thatwari(1), referred to.

Appeal by the decree-holder.

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

Kailaspati for the appellant.

Hari Bhushan Mukerjee, for the respondent.

JWALA PRASAD, J.—There does not seem to be any substance in this appeal. The *jatri bahis* of the

1922.

AINTHU
GOPH
v.
KHA KHAR
SAHU.
DAWSON
MILLER
C. J.

1922.

May, 2.

* Appeal from Appellate Order No. 146 of 1921, from an order of J. A. Sweeney, Esq., District Judge of Gaya, dated the 8th April, 1921, confirming an order of Babu Jatindra Chandra Basu, Subordinate Judge of Gaya, dated the 10th September, 1920.

(1) (1917) 42 Ind. Cas. 478.

1922.

LACHMAN LAL
PATHAKv.
BALDEO LAL
THATHWARI.JWALA
PRASAD, J.

judgment-debtor are evidently not saleable. They contain merely entries as to the names and addresses of the pilgrims who deal with the judgment-debtor and as such they can be used only by him in order to perform personal service to the pilgrims. The entries in the books also enable the judgment-debtor to claim that the pilgrims mentioned therein or their family members and relations should utilize the services of the judgment-debtor while visiting Gaya on religious pilgrimage. Therefore these books embody the right or claim of the judgment-debtor of personal service. Beyond that the book is of no use, and as a record of the claims of personal service they seem to come well within clause (f) of section 60, as property not capable of attachment or sale in execution of a decree. These books are, no doubt, as held in the case between the parties in *Lachman Lal Pathak v. Baldeo Lal Thathwari* (1), stock-in-trade and appertain to the *gaddi* of the Gayawal judgment-debtor who carries on the office or business of a Gayawal, namely, priest to the pilgrims who visit Gaya on pilgrimage. The contention of the learned Vakil on behalf of the appellant is that, as these books have been held in the aforesaid case between the parties as valuable assets and as such heritable, they must be deemed to be attachable also. I do not think there is any force in this contention. The priestly office may be and is generally heritable, but is not saleable or attachable for that reason.

Then it is contended that these particular books have got a marketable price, and it is strongly urged that the fact that the decree-holder-appellant is willing to pay a fancy price for them, they must be held to be saleable in the present case. That obviously is no criterion to determine whether a particular article is saleable or not. In the present case it is certainly not, for behind this anxiety to purchase the *bahis*, there is the previous litigation between the same parties in

(1) (1917) 42 Ind. Cas. 478.

which these books along with the *Gayawali Gaddi* in question were claimed by the decree-holder as well as by the judgment-debtor. The decree-holder was not given the *bahis* and now he wants to seize the *bahis* in execution of his decree in order to deprive the judgment-debtor of his right of enjoying the benefit of the office by means of these books.

1922.

LACHMAN LAL
PATHAKv.
BALDFO LAL
THATWARI.JWALA
PRASAD, J.

Agreeing with the views of the Court below, I dismiss the appeal with costs.

BUCKNILL, J.—I agree.

Appeal dismissed.

REVISIONAL CRIMINAL.

Before Mullick and Coutts, J. J.

HIRANAND OJHA

v.

KING-EMPEROR.*

1922.

Máý, 2.

Code of Criminal Procedure, 1898 (Act V of 1898), sections 110 and 192(2)—Transfer of proceeding under section 110, validity of—Scope of section 192.

The word "case" in section 192 of the Code of Criminal Procedure, 1898, includes a proceeding under section 110 and therefore, such a proceeding may be transferred to another Magistrate by the Magistrate who has taken cognizance of the proceedings.

The words "receives information" in section 110 include information howsoever obtained. Therefore, where the police made a report to the Senior District Magistrate that certain persons were in the habit of committing mischief, extortion and other offences involving a breach of the peace, and that

* Criminal Revision No. 216 of 1922, against an order of H. Foster, Esq., Judicial Commissioner of Chota Nagpur, dated the 26th January, 1922, modifying an order of B. Bishundoo Narain Sinha, Deputy Magistrate of Palamau, dated the 28th November, 1921.