

APPELLATE CIVIL.*Before Varmu and Saunders, JJ.***MADHUSUDNAN DAS**

v.

MATHURANANDA DAS.*

*Co-operative Societies Act, 1912 (Act II of 1912)—
Rule 12 of the rules made under the Act, scope of—member
borrowing money from the Society—reference by the Society
—Registrar, whether has jurisdiction to make an award
against the member.*

Rule 12 of the rules made under the Co-operative Societies Act, 1912, provides :—

“(1) In the case of a dispute touching the business of the society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the Committee or any officer, a reference in writing shall be made by any party to the Registrar.....

(4) After hearing the parties to the dispute and examining such witnesses and documentary evidence as may be produced, the Registrar.....shall give a decision or award in writing.

(5) Such decision or award shall, on application to the Civil Court having local Jurisdiction, be enforceable as a decree of such Court.”

Held, that the disputed liability of a member to repay money due to the Society is a dispute touching the business of the Society and, being a dispute between one member and the remaining members, it is covered by the first clause of the rule which provides for such disputes between the members inter se.

Where a Society borrowed money from the Co-operative Central Bank and lent that money to one of its members and an award was obtained by the Bank against the Society, whereupon the Society made a reference to the Registrar who gave an award against the member for the sum of money which he had borrowed.

Held, that the Registrar had jurisdiction to make the award against the member of the Society.

* Circuit Court, Cuttack. Appeal from Appellate Order no. 1 of 1934, from an order of F. F. Madan, Esq., i.c.s., District Judge of Cuttack, dated the 18th November, 1933, confirming an order of Babu Sadhu Charan Mahanty, Subordinate Judge of Cuttack, dated the 31st October, 1933.

Appeal by the judgment-debtor.

The facts of the case material to this report are set out in the judgment of Saunders, J.

S. C. Bose, for the appellant.

B. N. Das, for the respondent.

SAUNDERS, J.—The appellant is a member of the Shyamsunderpur Co-operative Society. This society borrowed money from the Co-operative Central Bank of Kendrapara and lent that money to the appellant. An award was obtained by the Central Bank against the society, whereupon the society made a reference to the Registrar of Co-operative Societies, who gave an award against the appellant for the sum of money which he had borrowed. When the award was put into execution in the civil court the appellant objected that it had been made by the Registrar without jurisdiction. This objection was over-ruled both by the execution court and by the District Judge on an appeal from the order of the former court. The question whether the Registrar had jurisdiction to make the award or not depends upon the interpretation of rule 12 of the rules made under the Co-operative Societies Act. The relevant portion of the rule is as follows :

“(1) In the case of a dispute touching the business of the society between members or past members of the society or persons claiming through a member or past member or between a member or past member or person so claiming and the Committee or any officer, a reference in writing shall be made by any party to the Registrar.....

(4) After hearing the parties to the dispute and examining such witnesses and documentary evidence as may be produced, the Registrarshall give a decision or award in writing.

(5) Such decision or award shall, on application to the Civil Court having local Jurisdiction, be enforceable as a decree of such Court.”

There seems to me to be no reason to doubt that the disputed liability of a member to repay money due to the society is a dispute touching the business of the society and, being a dispute between one member and the remaining members, it is covered by the first clause

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of the rule which provides for such disputes between the members inter se. In my opinion the order of the Registrar was not without jurisdiction and I would accordingly dismiss the appeal with costs.

VERMA, J.—I agree.

Appeal dismissed.

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Before Khaja Mohamad Noor and Luby, JJ.

SREE SATYANARAIN SAMI

v.

JAMUNA BAI.*

Landlord and Tenant—purchase of non-transferable occupancy holding by ijaradar, effect of—Bengal Tenancy Act, 1885 (Act VIII of 1885), section 22(3)—Bengal Tenancy (Amendment) Act, 1907 (Act I of 1907)—ijaradar, whether could acquire occupancy right by purchase before the amendment—occupancy holding, transfer of, by ijaradar after purchase—effect—ijaradar must be taken to have given consent.

A thikedar during the period of his lease stands in the place of the landlord and as such can give consent to the transfer of a non-transferable occupancy holding even when he himself is the transferee.

L. J. Harrington v. Dwarka Prasad Chaudhury(1), followed.

Prior to the amending Act of 1907 the acquisition by a thikedar of an occupancy right by purchase was not barred by section 22(3) of the Bengal Tenancy Act, 1885.

*Appeal from Appellate Decree no. 1439 of 1930, from a decision of F. F. Madan, Esq., I.C.S., District Judge of Muzaffarpur, dated the 31st July, 1930, reversing a decision of Babu Nidheshwar Chandra Chandra, Subordinate Judge of Motihari, dated the 20th December, 1929.

(1) (1919) 1 Pat. L. T. 533.