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WORT AND DHAVLE, JJ.

the witness on the point after he had replied to the Court question. Rs. 37,000 and odd was awarded as damage on account of lands and buildings. This is based on a sale deed [Exhibit 2(*h*)] for Rs. 34,000 and vouchers for Rs. 5,000 or more for subsequent additions to the properties purchased besides the balance-sheets of the plaintiffs Company. Here again it is said that the balance-sheets are no evidence against the appellants. But the balance-sheets, whether in this connection or in connection with the furniture account, can be regarded in the light of claims made by the plaintiff Company against the appellants, and it does not appear that the appellants could not have subjected these claims to cross-examination. In our opinion, there is no room for interference with the quantum of damages awarded by the lower court. The result is that the appeal is dismissed with costs.

Appeal dismissed.

J. K.

APPELLATE CIVIL.

Before Wort and Dhavle, JJ.

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January, 18, 19, 20, 21.
February, 1, 2.
May, 6.

ISRI PRASAD SINGH

v.

JAGAT PRASAD SINGH.*

Contribution—Transfer of Property Act, 1882 (*Act IV of* 1882), *section* 82—*sale of mortgaged properties—consideration left with vendee and mortgagee—purchaser taking free from encumbrance, if liable to contribute Code of Civil Procedure*, 1908 (*Act V of* 1908), *Order* XLI, *rules* 20 *and* 33—*necessary parties in a contribution suit—"contract to the contrary", whether includes a contract between the mortgagee and purchasers from mortgagor—interest pendente lite, whether in the discretion of the court.*

B mortgaged villages *T* and *L* along with other properties to *S* and subsequently sold them to *G* and also executed a

*Appeals from Original Decrees nos. 187, 165 and 196 of 1932, from a decision of Mr. Muhammad Shamsuddin, Subordinate Judge of Gaya, dated the 19th May, 1932.

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mortgage in his favour, but left the consideration for payment to *S* and other mortgagees. *G*, from whom the two villages ultimately passed to the plaintiff under an *ekrarnama* of his heirs and other transactions, did not pay the mortgagees who obtained decrees and the plaintiff had to pay. The plaintiff thereafter sued for contribution and impleaded as defendants the persons who were in possession of the other mortgaged properties and persons liable under the *ekrarnama*. The Subordinate Judge decreed the suit but exempted the purchasers who had purchased free from encumbrances:

Held, that as *G* had enough money in hand to pay off the mortgagees the defendants who had purchased free from encumbrances were not liable to contribute. *Shah Muhammad Abbas* v. *Muhammad Hamid*(1), relied on.

Ganeshi Lal v. *Charan Singh*(2), referred to.

The words "contract to the contrary" in section 82 of the Transfer of Property Act does not necessarily refer to a contract between the mortgagor and mortgagee, but may include a purchaser from the mortgagor.

Ramabhadrachar v. *Srinivasa Ayyangar*(3), *Thoppai M. Muthiah Bhagavathar* v. *T. V. Venkatrama Ayyar*(4) and *Khudavand Karim* v. *Narendra Nath*(5), referred to.

In a contribution suit it is necessary that all the parties should be before the court, and in such a suit the powers of the appellate court under rule 33, read with rule 20, of Order XLI will be used without any hesitation although the suit was based on more than one cause of action, namely, liability arising under section 82 of the Transfer of Property Act and under the *ekrarnama*.

Payne v. *British Time Recorder Co.*(6) and *Harendra Nath Singha Ray* v. *Purna Chandra*(7), referred to.

Interest *pendente lite* is a matter in the discretion of the court.

Bank of Bihar v. *Ramghulam Singh*(8), referred to.

(1) (1912) 14 Ind. Cas. 179.
(2) (1930) I. L. R. 52 All. 358; L. R. 57 Ind. App. 189.
(3) (1900) I. L. R. 24 Mad. 85.
(4) (1935) I. L. R. 59 Mad. 121.
(5) (1935) I. L. R. 58 All. 548.
(6) (1921) 2 K. B. 1.
(7) (1927) I. L. R. 55 Cal. 164.
(8) (1932) 14 Pat. L. T. 133.

Appeals nos. 187 and 196 by the defendants.

Appeal no 165 by the plaintiff.

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

Manohar Lal (with him *Sarjoo Prasad*, *B. K. Prasad* and *R. K. Sinha*), for the appellants in Appeal no. 196.

A. B. Mukharji and *U. N. Banerji*, for the appellants in Appeal no. 187.

N. K. Prasad, II and *K. N. Lal*, for the appellants in Appeal no. 165.

Manohar Lall, *Sarjoo Prasad*, *B. K. Prasad*, *S. N. Ray* and *Rai Parasnath*, for the respondents in Appeals nos. 165 and 187.

A. B. Mukharji and *U. N. Banerji*, for the respondents in Appeals nos. 196 and 165.

N. K. Prasad, II and *K. N. Lal*, for the respondents in Appeals nos. 187 and 196.

R. K. Sinha, for the respondents in Appeal no. 165.

Syed Ali Khan, for the respondents in Appeals nos. 165, 187 and 196.

DHAVLE, J.—These appeals arise out of a suit for contribution.

Baijnath Prasad Singh, defendant no. 70, the owner of (certain shares in) mauzas Tungi Hasanpur and Latawar Faridpur, mortgaged them on the 25th of October, 1905, and again on the 21st November, 1905, along with the first thirteen properties mentioned in Schedule III of the plaint, to Rai Sahib Surju Lal, defendant no. 71, Babu Sri Lal, ancestor of defendants 1 to 6, and another Sri Lal, adoptive ancestor (father) of defendant no. 7. On the 23rd of

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December, 1907, the mortgagor sold the two villages Tungi Hasanpur and Latawar Faridpur to Gendan Singh, a money-lender (since deceased), from whom the plaintiff derives his title. On the same date Baijnath Prasad Singh executed a mortgage in favour of the same Gendan Singh. The consideration of the *kebala* and the mortgage (Ex. 5 and 7) was left with Gendan Singh to pay off six mortgages including those of the 25th of October and the 21st November, 1905. These two mortgages were, however, not paid off on the ground of the insufficiency of the money left in the hands of Gendan Singh and the mortgagees brought a suit in 1914 to enforce them and obtained a preliminary decree in 1915 and the final decree in 1918. In 1926 and 1927 the plaintiff had to pay Rs. 23,065-6-15 dams to save the two mauzas from sale in execution of the mortgage decree. In 1929 he brought the suit out of which these appeals arise, asking for contribution from defendants 1 to 58 as parties to whom the thirteen other mortgaged properties had passed. Contribution was also sought from defendants 59 to 67 for other reasons. Defendants 59 to 65 are descendants of Jagannath, a brother of Gendan's, and defendants 66 and 67 are descendants of Gendan. There was a third brother Fagu Singh, to whom the mauzas Tungi Hasanpur and Latawar Faridpur were allotted at a partition of the family in 1916, the *ekrarnama* (Ex. 2) providing, in view of the decree already obtained by the mortgagees upon the mortgages of October and November, 1905, that in case the properties be brought to sale in execution, the other two branches of the family would indemnify Fagu to the extent of two-thirds of Rs. 25,000-0-0, the value fixed for these properties at the partition. Plaintiff is Fagu's daughter's son, and received the two mauzas under a will executed by Fagu. He sought contribution from defendants 59 to 67 (along with the owners of the other properties) as the quondam part-owners of the two mauzas and in the alternative, i.e., if the other defendants should

be held to be free from liability, as persons bound by the special arrangement of the *ekrarnama* at the partition.

The principal grounds on which the suit was contested were that Gendan Singh had sufficient money left in his hands by the mortgagor to pay off the two mortgages and that therefore the plaintiff was entitled to no contribution at all from those defendants into whose hands the other thirteen properties had passed, and that several of these defendants were under no obligation to contribute because the properties had been conveyed to them free from encumbrance. The learned Subordinate Judge came to the conclusion that Gendan did have enough money to pay off the two mortgages, but that plaintiff was nevertheless entitled to contribution under section 82 of the Transfer of Property Act from the present owners of seven out of the thirteen properties. He found the other owners not liable for contribution on various grounds—and more particularly, defendants 8 to 10 (owners of properties nos. 3 and 4) and defendant no. 11 (owner of properties nos. 8 and 9) on the ground that these (four) properties had been conveyed to them free from encumbrance. As against defendants 59 to 67 the learned Subordinate Judge passed a decree for the whole of the money that plaintiff had had to pay *minus* the amount found due from the owners of the seven properties and *minus* also one-third of the rateable share of the two mauzas of Tungi Hasanpur and Latawar Faridpur.

Of the three appeals before us the one that has raised the most serious questions is First Appeal no. 187, which was preferred by defendants 59 to 67. The contentions advanced on their behalf were (*1*) that it was really immaterial to the liability under section 82 of Transfer of Property Act whether or not Gendan had enough money left with him by the mortgagor to pay off the two mortgages, but that in any case the lower court was wrong in holding that he

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had enough, (2) that defendants 8 to 10 and defendant 11 should not have been exempted because what they took was only the equity of redemption, and (3) that the liability of the appellants has been wrongly calculated.

Dealing first with the question of fact raised in this appeal, there is a dispute regarding the amount that Gendan actually paid in satisfaction of the four mortgages (one referred to in his *kebala*, Ex. 5, and three specified in his mortgage bond, Ex. 7) out of the money left with him, and also about the amount payable on the two mortgages of October and November, 1905.

* * * * * *

[His Lordship then discussed the evidence on the record and proceeded as follows:]

In my opinion, the learned Subordinate Judge was quite correct in holding that Gendan had enough in hand on the mortgagor's account to pay off the bonds of October and November, 1905, and that Gendan was not entitled to withhold payment merely on account of the extra Rs. 1,425 which may well have been due to him from Baijnath.

On the question of law raised by Mr. Mukherji the present case is not distinguishable in principle from *Shah Muhammad Abbas* v. *Muhammad Hamid*(1) which, as the learned Subordinate Judge has said, "was not overruled or disapproved" but explained by their Lordships of the Judicial Committee in *Ganeshi Lal* v. *Charan Singh*(2). It is unquestionable that we cannot introduce any extraneous principle to modify the liability to contribution imposed by section 82 of the Transfer of Property Act. But, as Lord Tomlin further said in *Ganeshi Lal's* case(2), the decision in *Shah Muhammad Abbas's* case(1) may be justified on the footing that in that case there passed

(1) (1912) 14 Ind. Cas. 179.

(2) (1930) I. L. R. 52 All. 858; L. R. 57 Ind. App. 189.

to the party, from whom the contribution was sought, the benefit of the contract by which the money was to be applied, so that he could say " I have a contract which frees me from the liability to contribution which the section would otherwise impose upon me. " No such plea is available to the appellants in this case. They were not parties to the contract of May, 1914, nor has the benefit of that contract passed to them in law or in equity. The facts of *Shah Muhammad Abbas's* case(1) were that the purchasers of mauza Bangaon who had contracted with the mortgagors to make a certain payment towards a mortgage of 1898, and to pay off a mortgage of 1899, on certain shares in mauza Jamalpur as well as Bangaon, had brought a suit for contribution against defendants who had subsequently purchased mauza Jamalpur " free from encumbrances". Contribution was in fact allowed, but the plaintiffs were debited with the amounts payable by them under their agreement or agreements with the mortgagors. The defendants were not parties to these agreements; but Chamier, J. had found that the plaintiffs had been supplied with funds for the express purpose of making payments towards those mortgages and that it was not the intention of any of the parties concerned, after the purchase of the plaintiffs, that Jamalpur and Bangaon should contribute rateably to the mortgage debts. The benefit of the contract between the plaintiffs and the mortgagors by which the money was to be applied by the plaintiffs was thus regarded by their Lordships of the Judicial Committee as having passed to the defendants who had purchased Jamalpur " free from encumbrances" and to free them (*pro tanto*) from the ordinary liability to contribution under section 82. In the present case defendants 8 to 10 and defendant 11 have been found by the lower court to be in the same position as the defendants in the case of *Shah Muhammad Abbas* v. *Muhammad Hamid*(1). They

(1) (1912) 14 Ind. Cas. 179.

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purchased free from encumbrance, and as Gendan is found to have had enough money in hand to pay off the bonds of October and November, 1905, their liability to contribution would be nil. Mr. Mukharji has argued that the "contract to the contrary" referred to in section 82 of the Transfer of Property Act must be a contract between mortgagor and mortgagee and not, as in the present case, a contract between the mortgagor and a purchaser from him, and has relied upon *Ramabhadrachar* v. *Srinivasa Ayyangar*(1), in support. The learned Judges did observe in this case that "the words 'contract to the contrary' were intended to apply to contracts between mortgagor and mortgagee—contracts, for example, under which some of the mortgaged properties were to be liable in the first instance and others only to be liable in the event of the security of the properties liable in the first instance being insufficient." But the question for actual decision before them was whether or not the plaintiff, who had purchased a part of the quarter share that had been taken by his vendor on a family partition between his father and three sons, together with one quarter of the mortgage debt, " was only entitled to contribution in respect of moneys paid by him in excess of his own liability for one quarter of the mortgage debt," or whether he could claim rateable contribution from the eighteenth defendant, a purchaser from the father who had raised the point. As to this, the learned Judges said " The proportionate liability of the members of the family *inter se* for the amount of the mortgage debt existed apart from any express contract which they may have chosen to make. The contract as between the parties, the owners of the equity of redemption, is of course binding, but it is not a contract which binds their assignees." This shows that notwithstanding their observation regarding " contracts to the contrary ", the learned Judges would have given effect to a contract, if there had been

(1) (1900) I. L. R. 24 Mad. 85.

any, which was binding between the plaintiff and the defendant from whom rateable contribution was claimed: *see* also *Thoppai M. Muthiah Bhagavathar* v. *T. V. Venkatrama Ayyar*(1) and *Khudavand Karim* v. *Narendra Nath*(2). In any event, having regard to what was said in *Ganeshi Lal's* case(3), about the case of *Shah Muhammad Abbas*(4) the present must be regarded as a case, not indeed of a contract to the contrary within section 82, but of a contract between the mortgagor and Gendan his transferee, the benefit of which has passed to the defendants who made subsequent purchases free from encumbrance. Mr. Mukharji has argued that defendants 8 to 10 and defendant 11 could not but have known that the properties they were purchasing were in fact not free from the encumbrances of October and November, 1905. This may be conceded. For, the earliest of the sale deeds of these defendants is Exhibit A, which appears from the evidence of the recitals in Exhibits 5 and 7—we have not before us the recitals in Exhibit A, though we have been told that they are on the same lines—to have been part of the same transaction as these two deeds of Gendan ; and defendants 8 to 10 made their purchase in 1921 long after the decree obtained by the mortgagees on the mortgage bonds of October and November, 1905. As against the mortgagees they clearly took only the equity of redemption ; but it is equally clear that as against the mortgagor and his representatives in interest they paid for and were to have the properties free from encumbrance. After Baijnath's arrangements with Gendan for the payment of the mortgages of October and November, 1905, it could not have been either in his contemplation or in the contemplation of any of his purchasers that the properties subsequently purchased should be subject to any contribution under section 82, having regard

(1) (1935) I. L. R. 59 Mad. 121.
(2) (1935) I. L. R. 58 All. 548.
(3) (1930) I. L. R. 52 All. 358; L. R. 57 Ind. App. 189.
(4) (1912) 14 Ind. Cas. 179.

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to the fact that they paid and he received the value not of the equity of redemption in the properties but of the properties themselves.

The appellants sought to fasten liability upon defendants 8 to 10 and defendant 11 because of their liability under the *ekrarnama* (Exhibit 2) to make good the loss that would fall on the plaintiff to the extent of two-thirds of Rs. 25,000. Mr Manohar Lal who appears for defendants 1 to 11 argued *in limine* that the appellants were not entitled to raise the question of the liability of defendants 8 to 10 and defendant 11 as the plaintiff who has preferred appeal no. 165 is content with the decision of the lower court in their favour and has not appealed on that point. He also contended that defendants 1 to 7 have been unnecessarily dragged to this Court. But the suit was a suit for contribution, and in such suits it is so necessary that all the parties should be before the Court that the powers of the appellate Court under rule 33, read with rule 20, of Order XLI will be used without any hesitation. Upon this Mr. Manohar Lal contended that Order XLI, rule 33, is not intended to apply to cases which, like the present case, are brought on more than one cause of action—the liability of the purchaser defendants arising under section 82 of the Transfer of Property Act, and the alternative liability of the appellants under the *ekrarnama*. But suits on such alternative grounds are specifically provided for in Order I, rule 3—*see* also *Payne* v. *British Time Recorder Co.*(1), referred to by my learned brother during the arguments, and *Harendra Nath* v. *Purna Chandra*(2) where the law on the subject was elaborately discussed. Appeals in such suits have been dealt with under Order XLI, rule 33, in several reported decisions, nor is there anything in the rule or in the illustration to it to confine its application to cases where there is but one cause of action or ground of

(1) (1921) 2 K. B. 1.
(2) (1927) I. L. R. 55 Cal. 164.

liability against the defendants. In my opinion, defendants 1 to 6 were necessary parties to the appeal, and defendant 7 a proper, though not a necessary, party; and the appellants were entitled to raise the question resisted by Mr. Manohar Lal.

Much need not be said regarding another point raised by Mr. Manohar Lal, who argued that the lower court was wrong in holding that the mortgagor and Gendan had not assured defendant no. 11 that the properties purchased by him were free from all encumbrances and that the suit was not barred as against defendant no. 11 by estoppel. As I have already observed, the first sale deed of defendant no. 11, Exhibit A, appears to have been part of the same transaction as the sale deed and the mortgage bond of Gendan. It was no doubt executed a couple of days later, but was registered at the same time as the other two deeds; and all the three deeds bear the attestation of Gendan or defendant no. 11 as the case may be. The oral evidence that Gendan had brought defendant no. 11 into the transaction is not very satisfactory by itself, but is strongly supported by the recitals in the deeds in favour of Gendan. At the same time, the case is one not so much of estoppel grounded on the conduct of Gendan as of a covenant by Baijnath in favour of defendant no. 11 that the properties sold were free from encumbrance. Except as against the mortgagees defendant no. 11 clearly purchased not the equity of redemption in the properties but the properties themselves.

DHAVLE, J.

The only point that remains to be dealt with in this appeal (no. 187) relates to the calculation of the liability of the appellants. In calculating the rateable shares of the fifteen mauzas, the learned Subordinate Judge had to take into account no less than twelve other mortgages to which one or more of those properties were subject, and his calculations on this point have not been assailed before us. He found that the rateable share of the seven properties that were liable

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to contribution under section 82 of the Transfer of Property Act was Rs. 8,882-4-0, and that of Tungi Hasanpur and Latawar Faridpur Rs. 3,112-1-0. Deducting one-third of this last amount as plaintiff's own share of contribution, the learned Judge held that plaintiff was entitled to receive Rs. 22,028-1-1 dam; and out of this sum he ordered the purchasers of the seven properties to contribute Rs. 8,882-4-0, and defendants 59 to 65 and defendants 66 and 67 to pay the balance in equal shares. It has been contended for the appellants that under the *ekrarnama* plainiff's liability was not limited to one-third of the rateable share of Tungi Hasanpur and Latawar Faridpur but extended to one-third of the entire loss that would fall on the plaintiff as the owner of those mauzas. The learned advocate for the plaintiff endeavoured to meet this by urging that it was conceded by defendants 59 to 67 in the lower court that plaintiff was entitled to receive from these defendants so much of the sum he had had to pay " as is dismissed out of the claim made against defendants 1 to 58". The judgment of the lower court on issue no. 8 shows that some kind of concession was made, but it is quite clear that it has not been very correctly expressed because the actual order of the lower court leaves the plaintiff to bear one-third of the rateable share of his two mauzas, which is inconsistent with the concession as put by the learned Judge. In any case it was not a concession of fact. On the terms of the *ekrarnama*, it seems clear that plaintiff must bear one-third of the amount that he is found not entitled to recover from defendants 1 to 58, and it has not been argued before us that the liability of the mauzas bound to contribute should be recalculated after leaving out the other mauzas. Deducting Rs. 8,882-4-0 from Rs. 23,065-6-15 dams, we get Rs. 14,183-2-15 dams. The share of plaintiff, defendants 59 to 65 and defendants 66 and 67, each, out of this balance is Rs. 4,727-11-12 dams, and this should have been the amount awarded to the plaintiff against these

two sets of defendants instead of Rs. 6,572-15-6 dams, the figure adopted by the lower court.

To the extent indicated in the last paragraph F. A. 187 succeeds. I would allow the appellants costs of this Court in proportion to their success.

DHAVLE, J.

F. A. 165 of 1932 was preferred by the plaintiff on the ground that he should have been allowed interest *pendente lite*. The learned advocate for the appellant has cited *Bank of Bihar, Ltd.* v. *Ramghulam Singh*(1). Interest *pendente lite* is, however, a matter of discretion and in the present case there were various circumstances, though the learned Judge below has not referred to them, which may well have led the court to say nothing about such interest. In the first place, interest up to the date of suit was allowed at 9 per cent. per annum with annual rests not only as against defendants 59 to 67 but also against the owners of the seven properties, even though there was no written contract making them liable to pay interest and it was not proved that any demand of payment had been made from them in writing. Secondly, the interest claimed by the plaintiff was 2 per cent. per month, and though this is the rate given in the *ekrarnama*, it was plaintiff's own case, and it was admitted by Ramdeo Singh for defendants 59 to 67, that he had paid off the mortgage decree by raising a loan at 9 per cent. per annum. In my opinion, the plaintiff has failed to make out any sufficient reason for our interfering with the order passed by the lower court in this respect.

One cross-objection was filed in this appeal by defendant no. 8, and another by defendant no. 11, claiming that the lower court had erred in not awarding costs to them against the plaintiff. The suit was dismissed as against them, but the question of costs was apparently overlooked. There does not appear

(1) (1932) 14 Pat. L. T. 133.

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to be any reason why they should be deprived of their costs. I would modify the decree of the lower court in this respect. It appears from the decree that their costs were calculated as if they were among the defendants who had lost and that these costs included a pleader's fee on the whole amount claimed in the suit. In calculating their costs the pleader's fee must be computed on the amount claimed from them by the plaintiff. There is also an expert's fee put at Rs. 1,040-0-0 included in the "Costs of Defendant no. 11 Lost". This was apparently the fee of a handwriting expert whose evidence we find printed in the third appeal before us, no. 196. It is clear from the judgment of the lower court that little enough turned on the evidence of this expert, and the fee paid seems grossly out of proportion to the standing of the expert or the importance of the evidence. I would reduce it to Rs. 100.

I would, therefore, dismiss this appeal no. 165, with costs and allow the cross-objections, defendants 8 to 10 and defendant 11 getting their costs in both courts in proportion to their success.

The third appeal before us, no. 196, is preferred by defendants 13 to 27 who were impleaded as owners of properties nos. 6 and 7 in Schedule III of the plaint. The learned advocate for these appellants has urged that there should have been no decree against defendant no. 13 because, as stated in paragraph 2 of his written statement (at page 19 of Parts I and II of the paper book), he had made a gift of the properties to defendant no. 16 in 1901. Neither the deed of gift nor the deed of sale that preceded it was produced. The evidence of Rajeshwar Lal, which has been printed for the purposes of this appeal, appears from his cross-examination to be mere hearsay. The appeal, therefore, fails, and I would dismiss it with costs.

The only other matter that requires to be referred to is an application put in on behalf of defendant no. 56 in appeal no. 187 that the decree should be

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"made clear", as the learned advocate put it, by providing that as against this petitioner the plaintiff is to realise his decree by the sale of the property no. 13 of the third schedule, with which he is concerned. It is true that there was a prayer in the plaint regarding the sale of the properties in the schedule in case of default in payment by the purchasers. But this prayer was evidently given up during the trial. It was, at any rate, not allowed by the lower court, and the plaintiff had not appealed on the point. If the applicant was really aggrieved by the refusal of the lower court to confine the plaintiff to a sale of the porperty, he should have appealed. The matter is not one of mere amendment, nor has the plaintiff even now asked for this particular relief. I would, therefore, dismiss the application.

WORT, J.—I agree.

Appeals nos. 165 *and* 196 *dismissed.*

Appeal no. 187 *allowed in part.*

Cross-objections allowed.

J. K.

APPELLATE CRIMINAL.

1937.

June, 24, 28, 29.
July, 1, 2, 20.

GOVERNMENT ADVOCATE, BIHAR

v.

KUMAR SINGH.*

Penal Code, 1860 (*Act XLV of* 1860), *sections* 196 *and* 211—*making false charge against Subordinate Judge before District Judge—sanction by local Government—complaint by District Judge, whether necessary under section* 195 (1) (b) *of the Code of Criminal Procedure*, 1898 (*Act V of* 1898)—*District Magistrate, whether can take cognizance under section* 190 (c).

*Government Appeal no. 6 of 1937, from a decision of A. P. Mukharjee, Esqr., I.C.S., Sessions Judge of Purnea, dated the 30th September, 1936.