

in this Court and the lower appellate Court. Costs in the trial Court will be paid as directed by that Court.

A. N. C.

Appeal accepted.

APPELLATE CIVIL.

Before Mr. Justice Campbell and Mr. Justice Zafar Ali.

ATMA SINGH (DEFENDANT) Appellant

versus

NATHU MAL (PLAINTIFF),

GANGA BISHEN AND OTHERS } Respondents.
(DEFENDANTS)

1926

Jan. 30.

Civil Appeal No. 1371 of 1922

*Court Fees Act, VII of 1870, schedule I, article 1—
Appeal—valuation of—where liability of certain property
under the decree is disputed.*

The plaintiff sued his original vendees and the subsequent transferees for the balance of the price of a house and shop which he had sold, and obtained a decree, under which he was entitled to realise a portion of the decretal amount by sale of the shop of which defendant A was the last transferee. A appealed against so much of the decree as rendered his property liable and sought that he should be released from the decree.

Held, that the proper stamp for the purposes of court-fee on the appeal was one *ad valorem* on the value of the decree, not exceeding, however, the value of the shop.

Kesavarapu Ramakrishna Reddi v. Kotta Kota Reddi (1), followed.

Venkappa v. Narasimha (2), *Jugal Pershad Singh v. Parbhu Narain Jha* (3), and *Tharu Mal v. Chandu Ram* (4), referred to.

(1) (1906) I.L.R. 30 Mad. 96 (F.B.). (3) (1910) I.L.R. 37 Cal. 914.

(2) (1887) I.L.R. 10 Mad. 187.

(4) 11 P. R. 1916.

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ATMA SINGH
v.
NATHU MAL.

First appeal from the decree of Lala Prabhu Dial, Subordinate Judge, 1st class, Amritsar, dated the 3rd February 1923, passed in plaintiff's favour.

J. G. SETHI, for Appellant.

JAGAN NATH, AGGARWAL, BALWANT RAI, HAKUMAT RAI and LAL CHAND, for Respondents.

The judgment of the Court was delivered by—

CAMPBELL J.—A preliminary objection is taken that there has been no proper presentation of this appeal which was filed on a court-fee stamp of Rs. 10 on 1st May 1922.

The nature of the suit is as follows:—In 1919 the plaintiff sold a shop and a house to Ganga Bishen, Lalu Mal and Sain Das for Rs. 18,500. A stipulation was made that Rs. 12,000 of the sale price were to remain in deposit with the vendees to be paid within a year together with interest, the properties being hypothecated for the amount due. The three vendees subsequently resold the house and shop which passed through several hands until finally the house was acquired by Karam Chand and the shop by Atma Singh. The suit is by the original vendor against his own vendees and the subsequent transferees for Rs. 13,051-12-0.

The lower Court has decreed in favour of the plaintiff as follows:—Jamna Das one of the intermediate transferees is to pay Rs. 528. The balance is to be realised from the house. In case of deficiency it is then to be realised from the shop and if there is any further deficiency the original vendees are responsible for it. Atma Singh who holds the shop has now appealed on four grounds, of which the first is that the lower Court erred in holding that the appellant was not entitled to prove that payment

of money was conditional on delivery of possession and the other three maintain that Atma Singh is in no way liable for the claim and that the plaintiff has no lien on the shop.

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The law is clear as to the proper court-fee to be paid on such an appeal. It was pointed out in *Venkappa v. Narasimha* (1), the decision in which was approved by a Full Bench in *Kesavarapu Ramakrishna Reddi v. Kotta Kota Reddi* (2). The Full Bench decision was followed in *Jugal Pershad Singh v. Parbhu Narain Jha* (3) and *Tharu Mal v. Chandu Ram* (4). The appellant's appeal was against so much of the decree as rendered his property liable and sought that he should be released from the decree. The proper stamp to be paid was one *ad valorem* on the value of the decree, not exceeding, however, the value of the shop. The appellant should have valued his shop and paid court-fee on that valuation, and, if the respondents had challenged the correctness of the valuation, the matter would have been investigated and adjudicated upon in the usual manner. Instead of this and in spite of objections raised by the office the appellant insisted upon appealing on a Rs. 10 stamp and declaring the value of his appeal for purposes of court-fee to be declaratory. There is no force in the appellant's learned counsel's argument that for all practical purposes there was an adjudication on the question of court-fee stamp by the taxing officer. The case was never before the taxing officer. In our opinion the appellant's learned counsel could have had no reasonable doubt about the law governing his case and there was no *bonâ fide* mistake. We refuse, therefore, to extend time under section 149, Civil

(1) (1887) I.L.R. 10 Mad. 187. (3) (1910) I.L.R. 37 Cal. 914.
(2) (1906) I.L.R. 30 Mad. 96 (F.B.). (4) 11 P. R. 1916.

Procedure Code, and we dismiss the appeal with costs.

N. F. E.

Appeal dismissed.

REVISIONAL CRIMINAL.

Before Sir Shadi Lal, Chief Justice.

RAM SARAN DAS AND ANOTHER, Petitioners

versus

THE CROWN, Respondent.

Criminal Revision No. 1523 of 1925.

Indian Penal Code, 1860, sections 171-C, 341, 342—Wrongful restraint or confinement of a candidate on a date prior to the date of election—whether amounting to interference with electoral right—Criminal Procedure Code, Act V of 1898, section 196—Sanction—absence of—trial for minor offences.

On the night preceding the day of an election a candidate (complainant) was prevented, from coming out of his house to canvass for votes, by his rival candidate and others (accused) who were picketing the complainant's house.

Held, that on these facts the accused had not interfered or attempted to interfere with the free exercise of an electoral right or threatened any candidate or voter with injury; and no *prima facie* case under section 171-C of the Indian Penal Code was made out.

Held further, that as upon the allegation of the complainant in this case no offence requiring sanction was committed, there was no obstacle to the trial of the accused for minor offences under the Code, not requiring sanction under section 196 of the Code of Criminal Procedure.

Ram Nath v. Emperor (1), *Ram Nath v. King-Emperor* (2), *Queen-Empress v. Anant Puranik* (3), and *Lekhraj v. Crown* (4), cited.

(1) (1925) 26 Cr. L. J. 362.

(2) All. I. R. 1924 (All.) 684.

(3) (1900) I. L. R. 25 Bom. 90.

(4) 31 P. R. (Cr.) 1910.

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Feb. 13.