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parties. I have already referred to the fact that the defendant wanted to have the whole of the consideration, but was eventually persuaded to take it in instalments. The sum is described merely as an "advance" in the receipt exhibit P. 1 and this seems to represent the real intention of the parties. In these circumstances, there is no good reason why the plaintiff should not be allowed to claim a refund of this sum.

I would accordingly dismiss the appeal as well as the cross-objections with costs.

ADDISON J.

ADDISON J.—I concur.
 N. F. E.

Appeal dismissed.

CIVIL REFERENCE.

Before Addison and Bhide JJ.

SECRETARY OF STATE—Petitioner
versus

AMAR SINGH AND OTHERS—Respondents.

Civil Reference No. 2^o of 1927.

Punjab Alienation of Land Act, XIII of 1900, section 21-A—Reference to High Court—whether abates on failure to implead legal representatives of deceased respondent—Civil Procedure Code, Act V of 1908, Order XXII, Rule 11—Findings of fact of trial Court—whether binding on High Court.

Held, that the provisions of Order XXII of the Civil Procedure Code, apply only to suits and appeals; and not to a reference under section 21-A of the Punjab Alienation of Land Act. Moreover, in such a reference the Court is bound to decide whether the decree or order complained of is or is not in accordance with the provisions of that Act; and no appearance by or on behalf of the Deputy Commissioner is necessary.

Consequently, no question of abatement can arise from the failure to implead the legal representatives of a deceased respondent.

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Held also, that in such a reference it is not open to the High Court to interfere with the trial Court's findings of fact.

Case referred by L. A. Bull, Esquire, Collector, Attock, at Campbellpore, with his No. 3809-G., dated the 30th August 1927, for orders of the High Court.

ABDUL RASHID, Assistant Government Advocate,
for Petitioner.

BISHEN NATH, for Respondent.

BHIDE J.—This is an application under section 21-A, of the Punjab Alienation of Land Act, for revision of an order of the District Judge, Attock.

A preliminary objection is raised that this application has abated as the legal representatives of one of the respondents, who is dead, were not brought on the record within time. This contention does not seem to be well-founded. In the first place it is to be remembered that the provisions of Order XXII, Civil Procedure Code, apply only to suits and appeals (*cf.* rule 11 of Order XXII). Secondly, under section 21-A, of the Punjab Alienation of Land Act, the Court is bound to decide whether the decree or order complained of is or is not in accordance with the provisions of that Act, and no appearance by or on behalf of the Deputy Commissioner is necessary. In these circumstances no question of abatement seems to arise.

On the merits, this application must fail. On the findings of the trial Court the decree sought to be revised cannot be held to contravene any of the provisions of the Punjab Alienation of Land Act; for the mortgage transaction on the basis of which the decree has been passed was admittedly entered into prior to the passing of that Act. The learned Sub-

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ordinate Judge's finding that the defendants were estopped from pleading that the mortgage had come to an end seems to be palpably erroneous; but the proper remedy was to appeal from the decree and it is unfortunate that the defendants did not do so. It is not open to this Court to interfere with the learned Subordinate Judge's findings of fact on a reference under section 21-A of the Punjab Alienation of Land Act, and consequently this application must be dismissed. But in view of all the circumstances, I would leave the parties to bear their costs.

ADDISON J.

ADDISON J.—I agree.

N. F. E.

Application dismissed.

REVISIONAL CRIMINAL.

Before Addison J.

DEVI DAYAL—Petitioner

versus

THE CROWN—Respondent.

Criminal Revision No. 370 of 1930.

*Indian Motor Vehicles Act, VIII of 1914, section 16—
 Punjab Motor Vehicles Plying for Hire Rules, 1922, rule 3—
 Criminal liability of owner—for suffering his motor to be plied
 for hire not in conformity with the conditions in his road
 certificate.*

The Driver was found with 17 passengers in his motor lorry, of whom one was on the mud-guard. Under the road certificate, only 10 passengers could be carried and the carriage of a passenger on the mud-guard was prohibited. Under rule 3 of the Punjab Motor Vehicles Plying for Hire Rules, 1922, it is the owner who has to get a road certificate, and he is not to let the vehicle, or to ply it, for hire, or suffer it to be let or plied for hire, without such certificate and except in conformity with the conditions in such certificate.

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 May 21.