

APPELLATE CIVIL.

Before Shadi Lal C. J. and Broadway J.

1929

July 24.

RANJHA (PLAINTIFF) Appellant

versus

MST. DURGO (DEFENDANT) Respondent.

Civil Appeal No. 2284 of 1925.

Indian Registration Act, XVI of 1908, sections 25, 77—Registrar's discretion—refusal to extend time—Suit, questioning the propriety of the Registrar's discretion—whether maintainable.

The document having been presented for registration long after the lapse of the prescribed period, the Registrar, after examining the circumstances, declined to condone the delay, and, therefore, refused to accept the document for registration.

Held, that a suit instituted under section 77 of the Act questioning the propriety of the exercise of the Registrar's discretion under section 25 had been rightly dismissed.

Jahangiri Mal v. Kashi Ram (1), followed.

Second appeal from the decree of Dewan Somnath, District Judge, Hoshiarpur, dated the 25th June 1925, affirming that of Lala Munshi Ram, Subordinate Judge, 2nd class, Hoshiarpur, dated the 15th April 1925, dismissing the plaintiff's suit.

FAQIR CHAND, for Appellant.

Nemo, for Respondent.

BROADWAY J.

BROADWAY J.—A deed of release alleged to have been executed by *Mussammatt Durgo*, widow of *Premun*, on the 26th April, 1923, was presented for registration by *Ranjha*, on the 3rd of October, 1923. As the presentation was more than four months after the alleged execution, the Registrar, on the 30th January, 1925, declined to condone the delay, and refused to

accept the document for registration. Thereupon Ranjha instituted a suit under section 77 of the Indian Registration Act complaining that the Registrar had erred in not extending the time, and asking for a direction that the document should be registered.

1929
 RANJHA
 v.
 M^{ST.} D^{URGO.}
 BROADWAY J.

The trial Court dismissed the suit, holding that the facts were similar to those in *Jahangiri Mal v. Kashi Ram* (1). An appeal by Ranjha having been dismissed by the learned District Judge, he has come up to this Court in second appeal.

It has been contended by Mr. Faqir Chand that the Courts were wrong in declining jurisdiction, and that the view taken in *Jahangiri Mal v. Kashi Ram* (1) had been differed from by the Madras and Bombay High Courts. There is apparently a conflict of opinion between the Bombay and Madras High Courts as to whether a refusal to accept for registration was tantamount to a refusal to register and gave a party a right to institute a suit under section 77 of the Indian Registration Act. In *Jahangiri Mal v. Kashi Ram* their Lordships constituting the Bench considered it unnecessary to give any definite decision on this point, as, in their opinion, even if such a suit were maintainable, a civil Court had "no right to question the propriety of the discretion vested in the Registrar under section 25 of the Act." The facts in this case are practically the same as those in *Jahangiri Mal v. Kashi Ram* (1). The document was presented for registration long after the prescribed period. Under section 25 of the Indian Registration Act the Registrar was given a discretion to extend the time condoning the delay. After, apparently, a careful examination of the circumstances

1929

RANJHA
v.

MST. DURGO.

BROADWAY J.

the Registrar, on the 30th January, 1925, declined to condone the delay, and therefore refused to accept the document for registration.

In these circumstances, I am of opinion that the suit has been rightly dismissed, and I would, therefore, dismiss this appeal; but, as there has been no appearance on behalf of the respondent, make no order as to costs.

SHADI LAL C.J.

SHADI LAL C.J.—I CONCUR.

N. F. E.

*Appeal dismissed.***MISCELLANEOUS CRIMINAL.***Before Shadi Lal C. J. and Broadway J.*

THE CROWN—Petitioner

versus

SUKH DEV AND OTHERS, RESPONDENTS.

Criminal Miscellaneous No. 185 of 1929.

Criminal Procedure Code, Act V of 1898 (as amended by Act XVIII of 1923), sections 353, 540-A—Pleader for one of several accused (during enquiry in Magistrate's Court)—appointment of, by Court, in absence of accused—necessity of accused's consent—Section 561-A: Inherent power—whether section applicable—where Code provides a specific power.

Held, that the "Pleader" contemplated in sub-section (2) of section 540-A of the Criminal Procedure Code (as amended by Act XVIII of 1923) must be one who represents the accused, and not a person who is appointed without his consent.

Held also, that the Court has no inherent power, in the interests of justice, to appoint a Pleader for an accused person without his consent and to treat such Pleader as his representative within the meaning of the section. The inherent jurisdiction of the Court, which receives recognition in section 561-A of the Criminal Procedure Code, cannot be invoked

1929

July 26.