

was made in the time of Vir Singh himself, although the gift was not recorded by mutation until after his death. As regards the necessity of an independent finding regarding the purpose for which the *dharam-sala* was established, I am unable to see why the Tribunal should not infer what this purpose was from evidence showing the purpose for which it has been used for a long time. Each case has to be decided on the whole evidence put forward by the parties in that particular case. In this case, I have no doubt that the finding of the Tribunal is correct and I would, therefore, dismiss the appeal with costs.

JAI LAL J.—I agree.

P. S.

Appeal dismissed.

LETTERS PATENT APPEAL.

Before Addison and Din Mohammad JJ.

ACHHRU MAL (DECREE-HOLDER) Appellant,

versus

BALWANT SINGH AND ANOTHER (JUDGMENT-DEBTORS) Respondents.

Letters Patent Appeal No. 122 of 1936.

Civil Procedure Code, Act V of 1908, s. 60 (1), proviso cl. (g) — Jagir — realised in the shape of an assignment of land revenue — whether a political pension.

The ancestors of the present *jagirdar* exercised sovereign powers in the locality in which they resided and were granted the right to realise the land revenue in lieu of the relinquishment of their sovereign rights, with a view to retain their alliance, or good will, or to claim their assistance when needed.

Held, that the *jagir* thus realised by the present *jagirdar* is a political pension within the meaning of clause (g) of the *proviso* to sub-section (1) of section 60 of the Code of Civil Procedure, and thus exempt from attachment in execution of a decree of a Civil Court.

Case law, discussed.

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Letters Patent Appeal from the judgment passed by Jai Lal J., in Civil Appeal No.2100 of 1935, dated 7th April, 1936, affirming that of Lala Gulwant Rai, District Judge, Ambala, dated 2nd July, 1935, who affirmed that of Sheikh Karam Ilahi Qureshi, Subordinate Judge, 1st Class, Ambala, dated 8th April, 1935, ordering that the jagir and the house in dispute be released from attachment.

PARKASH CHANDRA and QABUL CHAND, for Appellant.

BADRI DAS, TEK CHAND and DINA NATH BHASIN, for Respondents.

The judgment of the Court was delivered by—

DIN MOHAMMAD J.—This is a Letters Patent appeal from the judgment of Jai Lal J. in Civil Appeal No.2100 of 1935. The only question involved in the case was whether a *jagir*, that was realised in the shape of an assignment of land revenue, was a pension within clause (g) of the *proviso* to sub-section 1 of section 60 of the Code of Civil Procedure and thus exempt from attachment in execution of a decree of a civil Court. The learned Judge came to the conclusion that the word ‘pensions’ as used in clause (g) mentioned above covered such *jagirs* and consequently they were not liable to attachment in execution of a decree of a civil Court. Dissatisfied with this judgment the decree-holder has appealed.

The main contention raised by counsel for the appellant decree-holder is that the *jagir* in question is a *patti-dari jagir* and hence not a pension within the meaning of the Pensions Act. He further contends that the word ‘pension’ in the Civil Procedure Code is used in the same sense as that in which it is used in the Pensions Act. The arguments advanced by the counsel

before us as well as the authorities cited by him have been fully discussed in the judgment under appeal and it is not necessary to cover the same ground again. Suffice it to say that we are disposed to agree with Jai Lal J. and to hold that the word 'pensions' as used in clause (g) is wide enough to cover all sorts of periodical payments in whatever shape they are made by the Government. In some of the authorities cited before us the word 'pension' was interpreted in the light of the provisions of the Pensions Act, but with all respect we do not consider that this is strictly legal. If an exemption is claimed under clause (g) of the *proviso* to sub-section 1 of section 60 of the Civil Procedure Code, we do not think that it is permissible to refer to the various provisions of the Pensions Act to find out the true import of the word 'pension' in the Civil Procedure Code. The word 'pension' has not been defined in the Pensions Act, nor is it a technical term or a term of art, and this being so it would clearly follow that the term, as employed in the Civil Procedure Code, has been employed in its etymological sense. We do not intend to exclude the possibility of referring to another enactment to find out the meaning of a technical term or a term of art, if both enactments have used that term in the same sense, but where this is not the case, we do not think that such a reference would be proper. As observed in Maxwell, *On the Interpretation of Statutes* "The first and most elementary rule of construction is that it is to be assumed that the words and phrases of technical legislation are used in their technical meaning if they have acquired one, and, otherwise, in their ordinary meaning."

In Murray's Oxford Dictionary 'pension' is said to mean, among other things, "such a payment made to one who is not a professed servant or employee to

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retain his alliance, good will, assistance when needed, etc.”; or “an annuity or other periodical payment made by a person or body of persons, now especially by a Government, etc., in consideration of past services or of the relinquishment of rights, claims, or emoluments.” Both the history and the nature of the *jagir* now before us are clearly covered by the alternative definition stated above. It is admitted that the ancestors of the present *jagirdar* exercised Sovereign powers in the locality in which they resided and were granted the right to realise the land revenue in lieu of the relinquishment of the Sovereign rights. It is also clear that this privilege was conferred upon them with a view to retain their alliance or good will or to claim their assistance when needed. Whatever view, therefore, may be taken of the origin of the grant, it clearly falls within the definition given above.

In *Bodhraj Shah v. Sirdar Amrikh Singh* (1), in the case of a *jagir* which was commuted by the Government for the land revenue of certain villages, it was held by Plowden J. that it was a pension, both within the meaning of the Pensions Act and of the Civil Procedure Code. In *Qamar-ud-Din Khan v. Mani Ram* (2), the *khush-haisiyati* income (water advantage rate) was held to be a part of the *jagir* granted on political considerations.

In Civil Appeal No. 835 of 1915, which was a case from Ambala District, an *ala jagir* granted in consideration of the services in the mutiny was considered to be a political *jagir* and thus exempt from attachment under the provisions of the Pensions Act.

In *Karar Hassan v. Mustafa Hassan* (3), it was held by a Division Bench of the Punjab Chief Court

(1) 137 P. R. 1890. (2) 96 P. R. 1906.

(3) 86 P. R. 1914.

that an assignment of land revenue may or may not be a pension within the meaning of section 11 of the Pensions Act and that the answer to the question must depend upon the facts of each case. The grant of a fixed sum payable by the assignment of land revenue for political services was held in that case to be a pension within the meaning of the Pensions Act.

In *Atma Ram v. Kchar Singh* (1), *Karar Hassan v. Mustafa Hassan* (2) was approved. In that case almost all the cases relied on by the appellant's counsel were discussed and one of the learned Judges remarked that *Jowala Singh v. Dwarka Das* (3) and *Nand Singh v. Kapuria* (4), did not lay down good law in this respect. In *Shiv Narain Singh v. Muni Lal* (5), an *ala jagir* was held to be exempt from attachment under the provisions of the Civil Procedure Code. There, too, the subject-matter of the case was a *jagir* granted to a petty Sovereign of Cis-Sutlej States prior to the British accession in 1849.

Counsel for the appellant has mainly relied on *Duni Chand - Telo Mal v. Gurmukh Singh* (6) in support of his contention, but we do not consider that that judgment is of any help to the appellant in the determination of the question now before us. In the penultimate paragraph of the judgment of Abdul Qadir J., with which Sir Shadi Lal C. J. agreed, it has been clearly remarked that the respondent in that case had not discharged the *onus* that lay upon him to prove that his *jagir* was a political pension, and as the learned Judges were of opinion that this question was to be determined in every case that arose, the authority would not be of general application. It

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(1) 1930 A. I. R. (Lah.) 904.

(4) (1921) 61 I. C. 895.

(2) 86 P. R. 1914.

(5) 1934 A. I. R. (Lah.) 88.

(3) 92 P. L. R. 1904.

(6) 1930 A. I. R. (Lah.) 811

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may further be observed that Shadi Lal J. was a party to the decision in *Karar Hassan v. Mustafa Hassan* (1).

It may be remarked that if once it is held that the 'jagir' in question is a pension, there can be no question but that it is political.

Agreeing, therefore, with the learned Judge of this Court that the *jagir* in question is a political pension, we dismiss this appeal, but leave the parties to bear their own costs before us.

A. N. C.

Appeal dismissed.

LETTERS PATENT APPEAL.

Before Addison and Din Mohammad JJ.

SHIB CHARAN (MINOR) Appellant,

versus

CHANDGI RAM, LIQUIDATOR, THE
SONEPAT FLOUR MILLS, LIMITED

(IN LIQUIDATION) Respondent.

Letters Patent Appeal No. 127 of 1936.

Custom — Ancestral property — whether liable for father's debts in the hands of his son — and whether attachment of the property during father's life-time affects the question — Bhore Brahmins of Sonapat, district Rohtak — Riwayat-i-am.

A house at Sonapat belonging to C., a Bhore Brahmin, was attached as he was a contributory of a Company in liquidation. He died after attachment of the property but before the sale, and his minor son put in objections, claiming that, by custom, the house, being ancestral, was not liable for his father's debts in his hands. The District Judge decided, following *Ram Chandar v. Daryao Singh* (2), that the property was liable to be attached and sold under custom, whether it was ancestral or not. This decision was upheld by a Single Bench of the High Court on the ground that the house was the self-acquired property of C.

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