

to Rs. 200 to be considered a Court of "the lowest grade" within the meaning of section 15 of the Civil Procedure Code, in reference to the Small Cause Court at Ahmedabad, which also has jurisdiction within the cantonment?

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2. And if so, whether the present plaint should not be filed in the Court of the Cantonment Magistrate at Ahmedabad?

Mahádev Bháskar Chaubal for the plaintiff:—Both the Courts have jurisdiction to try the suit. Under section 15 of the Civil Procedure Code (Act XIV of 1882) the suit should be instituted in the Court of the lowest grade competent to try the cause, and as the Court of the Cantonment Magistrate had jurisdiction up to Rs. 200, and the amount sued for did not exceed it, his Court was the proper Court. See *Dwárkanáth Dutt v. Bhatlu Hawoldar*⁽¹⁾.

Vishnu Krishna Bhátvadekar for the defendant.

SARGENT, C. J.:—Both Courts had jurisdiction to try the cause—the Small Cause Court of the cantonment, because the cause of action arose within the local jurisdiction; and the Small Cause Court of the City, because the defendant resided there: but the former, whose jurisdiction only extends to Rs. 200, whilst that of the latter extends to Rs. 500, must, we think, be regarded as the Court of lower grade, and, therefore, under section 15 of the Civil Procedure Code (Act XIV of 1882), the proper Court to try the suit. See *Dwárkanáth Dutt v. Bhatlu Hawoldar*⁽¹⁾.

(1) 22 Cal. W. R. Civ. Rul., 457.

ADMIRALTY JURISDICTION.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justices Farran.

THE BOMBAY AND PERSIA STEAM NAVIGATION COMPANY,
LIMITED, (PLAINTIFFS), v. THE S. S. "ZUARI", (DEFENDANT).*

1887.
April 26.

*Practice—Review of judgment—No appeal from order granting review—
Civil Procedure Code (Act XIV of 1882), Sec. 629.*

No appeal lies from an order granting a review of judgment, except in the cases set forth in section 629 of the Civil Procedure Code (Act XIV of 1882).

In this suit, which arose out of a collision at sea, a decree for the plaintiffs was passed on the 14th April, 1887. On the 21st

* Admiralty Suit No. 7 of 1886.

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April the defendant applied for a review of judgment, on the ground of certain statements alleged to have been made, after the case had been concluded, by a person who had been examined as a witness for the plaintiffs at the trial, to the effect that, "if he had told the truth, things would have gone differently", and stating facts which, if true, would have affected the plaintiffs' case. On the 25th an order was made by Bayley, J., granting the review applied for. The plaintiffs appealed.

Russell, for the respondent, raised the preliminary point that no appeal lay from an order granting a review. He contended that section 629 sets forth the only cases in which an appeal from an order granting a review is permitted; and that this case did not come within any of those clauses. He referred to *Abdul Rahim v. Racharai*⁽¹⁾; and, as to the old practice, Broughton's Civil Procedure Code, at p. 295.

Macpherson, (Acting Advocate General), for the appellants, *contra*.

SARGENT, C. J.:—This is an appeal from an order of Mr. Justice Bayley granting a review. A preliminary objection has been taken, that in the present case no appeal lies from that order.

Section 623 of the Civil Procedure Code is the first section dealing with the subject of review, and it states the circumstances under which a review may be applied for. Then come sections 624, 626, and 629, which are the material sections in dealing with the case now before us. The last of these sections provides that there shall be no appeal against an order refusing a review, but that there may be an appeal against an order granting a review, where such order is "(a) in contravention of the provisions of section 624, or (b) in contravention of the provisions of section 626, or (c) after the expiration of the period of limitation prescribed therefor, and without sufficient cause."

The question now before us is, whether the order of Bayley, J., allowing a review was "in contravention of the provisions of section 626;" and to decide this we have to consider whether these words, which are used in clause (b) of section 629, mean that there may be an appeal on the ground that there was not "sufficient

(1) I. L. R., 1, All., 363.

ground" for granting the review,—in other words, an appeal on the merits generally, or only on the ground that the Court has granted the review without first coming to a conclusion that there was "sufficient ground", or without notice of the application for review having been given to the opposite party, or without strict proof of the allegation referred to in proviso (b).

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We think that the latter is the true construction of this clause, and that there is no contravention of the provisions of section 626, if the Court, to which the application has been made, was of opinion that the review should be granted, and if the rules laid down in the provisos have been observed.

In the present case we understand that the learned Judge, who made the order, was of opinion that there was sufficient ground for review, and he accordingly granted the application. It is not contended that there has been any violation of the rules contained in the provisos to section 626, and we must, therefore, hold that there is no appeal from the order.

FARRAN, J. :—I am of the same opinion. Section 629, clause (b), gives the right to appeal against an order granting a review only where the provisions of section 626 have been contravened. These provisions are four in number, *viz.*, (first) that, if the Court be of opinion that the application for review should be granted, it shall grant the same; (second) that the Judge shall record his reasons for granting it; (third) that the party applying for review shall give previous notice of his application to the opposite party; and (fourth) that where the applicant for review alleges that the new matter or evidence, the discovery of which is the ground of his application, was not within his knowledge when the decree was passed, he shall give strict proof of that allegation. In the present case no one of these four provisions has been contravened, and there is, therefore, no appeal against the order granting the review.

Appeal dismissed with costs.

Attorneys for the appellants :—Messrs. *Winter and Burder.*

Attorneys for the respondent :—Messrs. *Chalk, Walker, and Smetham.*