

1891.

LACHMI-
CHAND
HIRÁCHAND
v.
TEKÁRÁM.

Orders." That application must be in writing and bear the proper fee prescribed by Schedule II, No. 1 of the Court Fees' Act, 1870. The Circular does not require any notice of the claim to be served on the judgment-debtor. Whether he is bound by the order passed in the proceedings, must depend on the facts of each case—*Shivápa v. Dod Nagaya*⁽¹⁾.

Order accordingly.

(1) I. L. R., 11 Bom., 314.

APPELLATE CIVIL.

Before Mr. Charles Sargent, Kt., Chief Justice, and Mr. Justice Birdwood.

GULÁBCHAND MOTIRÁM, PLAINTIFF, v. CAPTAIN GEORGES,
DEFENDANT.*

1891.

December 22.

Cantonment Court of Small Causes—Cantonments Act (XIII of 1889), Secs. 2 (cl. 2), 10—Jurisdiction—Order of the Local Government to the contrary—Pecuniary limits of jurisdiction of Cantonment Court—Cantonments Act (III of 1880), repeal of.

Under section 10 of the Cantonments Act (XIII of 1889) the Cantonment Judge has jurisdiction up to Rs. 500 only, in the absence of any order of the Local Government to the contrary.

In a suit filed in the Court of the First Class Subordinate Judge of Belgaum, in its small cause jurisdiction, to recover Rs. 172 as arrears of rent, a question having arisen whether that Court, the pecuniary limit of whose jurisdiction as the Court of Small Causes was Rs. 500, or the Court of the Belgaum Cantonment Magistrate invested with small cause powers had jurisdiction to entertain the suit,

Held that the Cantonment Court alone had jurisdiction.

By Notification No. 2305, published at page 314 of the *Bombay Government Gazette* for 1887, the pecuniary limit of the Belgaum Cantonment Court is declared to be Rs. 200; and the declaration which was made under Act III of 1880, (which is an Act repealed by the Cantonments Act XIII of 1889), is kept alive by section 2, clause 2, of the Cantonments Act, and it is, therefore, such an order of the Local Government as is contemplated by section 10 of Act XIII of 1889.

THIS was a reference by Ráo Bahádúr Gopál Vináyak Bháuap, First Class Subordinate Judge of Belgaum, under section 617 of the Civil Procedure Code (Act XIV of 1882).

The facts, which gave rise to the reference, were as follows:—

One Gulábchand Motirám, residing within the limits of the Belgaum Cantonment, instituted a suit in the Court of the First

* Civil Reference, No. 19 of 1891.

Class Subordinate Judge of Belgaum in its small cause jurisdiction against one Captain Georges, 30th Regiment M. N. I., also residing in the said cantonment, for the recovery of Rs. 172, being the arrears of rent of a bungalow.

1891.

GULABCHAND
MOTIRAM
v.
CAPTAIN
GEORGES.

The defendant, Captain Georges, objected to the jurisdiction of the Court to try the suit, and pleaded that it ought to have been instituted in the Court of the Cantonment Magistrate having small cause jurisdiction in the Cantonment within the local limits of which both the parties to the suit resided, the bungalow, of which the rent was claimed, was situate, and the oral agreement giving the cause of action took place. He also relied upon the ruling in *Mohanlal Raichand v. Vira Punja* (1).

The Subordinate Judge, thereupon, made the reference in the following terms:—

“As regards the local and pecuniary jurisdiction of the two Courts it may be here noted that the Belgaum Cantonment, within the limits of which the Cantonment Magistrate exercises his small cause powers, is included within the local limits of the ordinary jurisdiction of this Court, within which this Court is invested with small cause powers up to Rs. 500. Before the 1st January, 1890, the date on which the Cantonments Act (No. XIII of 1889) came into force, the Cantonment Magistrate was invested with Small Cause Court jurisdiction up to Rs. 200 only, and consequently all suits of small cause nature above Rs. 200, but below Rs. 500, were instituted in this Court, while those below Rs. 200 only were instituted in the Cantonment Magistrate's Court, as this Court's jurisdiction in respect of such suits was then taken away by section 15 of the Civil Procedure Code, his Court being then of a lower grade than this Court, as was ruled in the case relied upon by the defendant. But under section 10 of Cantonments Act, the Cantonment Magistrate's powers are increased, and he is now invested with a small cause jurisdiction up to Rs. 500 within the limits of the cantonment, so that since 1st January, 1890, both this Court and the Cantonment Magistrate's Court have a co-extensive and concurrent small cause jurisdiction in respect of all suits up to Rs. 500 arising within the limits of

(1) I. L. R., 12 Bom., 169.

1891.
 GULABCHAND
 MOTIRAM
 v.
 CAPTAIN
 GEORGES.

the cantonment, and the provisions of section 15, Civil Procedure Code, which operated to exclude suits below Rs. 200 from the jurisdiction of this Court, is no longer applicable.

“The question, therefore, which arises for consideration, and is submitted for decision, is as follows:—Whether this Court has jurisdiction to entertain and try the suit in question under the circumstances stated above.”

The opinion of the Subordinate Judge on the above point was in the affirmative.

There was no appearance for the parties in the High Court.

BIRDWOOD, J.:—The Subordinate Judge is mistaken in supposing that the pecuniary limit of the jurisdiction of the Cantonment Court of Small Causes is raised by section 10 of the Cantonments Act, 1889, to Rs. 500. The Cantonment Judge has jurisdiction to this extent under that section only “in the absence of any order of the Local Government to the contrary.” By Notification No. 2305 of the 19th April, 1887, published at page 314 of the *Bombay Government Gazette* for 1887, the pecuniary limit of the Cantonment Court is declared to be Rs. 200. And that declaration, which was made under Act III of 1880, (which is an Act repealed by the Cantonments Act, 1889) is kept alive by section 2, clause 2 of the Cantonments Act, and is, therefore, such an order as is contemplated in section 10. The case is, therefore, governed by *Mohanlal Raichand v. Viru Punja*⁽¹⁾ and the Cantonment Court alone has jurisdiction, the value of the claim being less than Rs. 200.

Order accordingly.

(1) I. L. R. 12 Bom., 169.