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would go even further and say that it is impossible to suppose that the Legislature contemplated such orders when they passed the enactment in question, and I have no hesitation in saying that, where we find an administrative order passed which requires a subsequent act necessary not merely to complete, but to give any force at all to it, we are bound to hold that limitation must be taken to run from the date of the latter.

For these reasons, I am of opinion that the order of the Revenue Commissioner of the 12th November, 1895, is not such an order as is contemplated by article 14, and that in itself it gives no cause of action and need not be set aside.

The cause of action in the present case was given by the act of the Collector dispossessing the plaintiff on the 16th November, 1895, and as the suit is brought within a year of this date, it is in time. The dispossession was done by the Collector; the Government, therefore, is properly made a party to the suit as liable to the plaintiff for the act of its agent.

The appeal is decided in the manner proposed by the learned Chief Justice of this Court, and it is ordered that all costs hitherto incurred be costs in the suit.

Case remanded for retrial.

APPELLATE CIVIL.

Before Mr. Justice Parsons and Mr. Justice Ranade.

RAMDAYAL (ORIGINAL DEFENDANT), APPELLANT, *v.* JANKIDAS AND ANOTHER (ORIGINAL PLAINTIFFS), RESPONDENTS.*

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ch 5.

Civil Procedure Code (Act XIV of 1882), *Sec.* 13—*Res judicata—Court of competent jurisdiction.*

A brought a suit against B for Rs. 3,152, that is, for one instalment due under a bond. The suit was heard and decided by a Subordinate Judge of the Second Class, who had been deputed to assist a Subordinate Judge of the First Class. A obtained a decree for the amount claimed.

A then brought a second suit against B in the Court of a Subordinate Judge of the First Class to recover Rs. 6,526, being the amount of two instalments due

* Appeal, No. 121 of 1899.

under the bond. In this suit B raised the same contentions as in the former suit.

Held, that the decision in the first suit did not operate as *res judicata* in the second suit, as the Court that tried the first suit had no jurisdiction to try the second suit.

APPEAL from the decision of Ráo Bahádur K. B. Marathe, First Class Subordinate Judge at Dhulia.

On the 6th of December, 1895, defendant Ramdayal passed a bond to the plaintiffs promising to repay the amount secured by the bond by annual instalments of Rs. 3,000 each.

In 1896, plaintiffs brought Suit No. 246 of 1896 in the Court of the Joint Second Class Subordinate Judge at Dhulia to recover the first instalment together with interest, amounting to Rs. 3,152.

The Subordinate Judge decreed the plaintiffs' claim.

In 1899, plaintiffs filed a second suit in the Court of the First Class Subordinate Judge at Dhulia to recover Rs. 6,525, being the amount of the next two instalments together with interest.

In this suit defendants raised the same pleas as he had urged in the former suit (No. 246 of 1896).

The First Class Subordinate Judge held that the matter was *res judicata* and could not be re-opened in the present suit.

He, therefore, awarded the plaintiff's claim.

Against this decision defendant appealed to the High Court.

Setalwad (with *N. B. Pendse*) for appellant.

M. B. Chaubal for respondents.

PARSONS, J.:—The First Class Subordinate Judge evidently omitted to notice the words that are used in section 13 of the Civil Procedure Code, namely, "a Court of jurisdiction competent to try such subsequent suit or the suit in which such issue has been subsequently raised." To satisfy the requirements of the section, it is necessary that the two Courts shall have concurrent jurisdiction as regards the pecuniary limit as well as the subject-matter, and the extent of the jurisdiction depends on that of the Court in which the first suit was instituted at the time the first suit was brought—see *Misir Raghobardial* v. *Rajah Sheo Baksh*

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Singh (1); *Run Bahadur Singh* v. *Lucho Koer* (2); *Bholabhai* v. *Adesang* (3); *Rughunath* v. *Issur Chunder* (4). Here the first suit (No. 246 of 1896) was for a sum of Rs. 3,152, that is, for one instalment due under the bond, and it was heard and decided by the Second Class Subordinate Judge who had been deputed to assist the First Class Subordinate Judge. He was not competent to try the present suit, since it is for Rs. 6,525, that is, two instalments due under the bond, and is, therefore, beyond the limits of his pecuniary jurisdiction. For this reason his decision in the former suit cannot be *res judicata* in the present suit.

We reverse the decree and remand the suit for a trial on the merits. Costs to be costs in the cause.

Decree reversed and case remanded.

(1) (1882) 9 Ind. App., 197; 9 Cal., 439. (3) (1884) 9 Bom., 75.
(2) (1884) 12 Ind. App., 23; 11 Cal., 301. (4) (1884) 11 Cal., 153.

ORIGINAL CIVIL.

Before Sir L. H. Jenkins, Kt., Chief Justice, and Mr. Justice Candy.

1900.
April 18.

J. W. SEAGER (PLAINTIFF) *v.* HUKMA KESSA AND OTHERS (DEFENDANTS).*

Pledge—Husband and wife—Possession required for valid pledge—Contract Act (IX of 1872), Sec. 178.

The plaintiff sued to recover from the defendant the value of certain ornaments pledged with the defendant by the plaintiff's deceased wife. The plaintiff and his wife had lived together, and the latter, with the knowledge and consent of the plaintiff, had charge of the jewel-case containing the ornaments in question, which, however, belonged exclusively to the plaintiff. Without the knowledge or consent of the plaintiff his wife pledged these ornaments with the defendant as security for the repayment of certain promissory notes passed by her in favour of the defendant. After her death the defendant claimed payment of the promissory notes from the plaintiff. The plaintiff refused to pay, and sued the defendant for the value of the ornaments.

Held, that the plaintiff's wife had not in the beginning, nor did she subsequently acquire such possession as would validate the pledge by virtue of the provisions of section 178 of the Contract Act. To create a pledge under that section the pledgor must be in juridical possession of the goods; mere custody will not suffice.

* Small Cause Court Reference, No. 18775 of 1899.