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statement which can properly and would presumably be relied upon by the prosecution as a true statement and an admission that he was associated with members of the alleged gang of dacoits.

The case is in some respects similar to that of *Queen-Empress* v. *Javecharam*[1] where a statement of one accused that he had received certain property, which was alleged to have been stolen, from his co-accused was held to be inadmissible as being an admission of a criminating circumstance, on which the prosecution evidently relied.

Following this and similar rulings I hold that the statement in question is inadmissible under section 25 of the Evidence Act.

G. G. N.

[1] (1894) 19 Bom. 363.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Coyajee.

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January 20.

DEVU JETIRAM GUJAR (ORIGINAL DEFENDANT), APPELLANT *v.* REVAPPA SATAPPA SHIRKE AND OTHERS (ORIGINAL PLAINTIFFS), RESPONDENTS*.

Dekkhan Agriculturists' Relief Act (XVII of 1879), section 15 B—Decree—Payment by instalments—No application to a person who was not an agriculturist at the time of the decree.

A person who only becomes an agriculturist after the passing of a decree, is not entitled to the benefit of section 15 B of the Dekkhan Agriculturists' Relief Act, 1879.

SECOND appeal from the decision of C. E. Palmer, District Judge of Belgaum, confirming the order passed by A. K. Asundi, Subordinate Judge at Chikodi.

Execution proceedings.

The plaintiffs obtained a redemption decree for Rs. 4,999 against the defendant who was then not an agriculturist. Subsequently the defendant acquired

* Second Appeal No. 581 of 1921.

the status of an agriculturist. He then applied to the Court, under section 15 B of the Dekkhan Agriculturists' Relief Act, for an order enabling him to pay the decretal amount in instalments.

The lower Courts declined to make the order on the ground that it could only be made on the application of a judgment-debtor who was an agriculturist at the time the decree was passed.

The defendant appealed to the High Court.

S. S. Patkar, Government Pleader, for the appellant.

Nilkanth Atmaram, for the respondent.

MACLEOD, C. J. :—The plaintiffs applied for execution of their decree in Suit No. 240 of 1909 by sale of part of the mortgaged property. It was admitted that the defendant at the time the decree was passed was not an agriculturist, but on the allegation that he had since become an agriculturist, he claimed to be entitled to the benefit of section 15 B of the Dekkhan Agriculturists' Relief Act. Both the lower Courts have held that assuming that the defendant had become an agriculturist since the decree was passed, he was not entitled to the benefit of section 15B.

In *Balchand Chaturchand* v. *Chunilal Jagjivandas* [1] the question arose whether a defendant who was not an agriculturist at the time when a money decree was passed against him, but who had become one later, could at the time of execution ask the Court under section 20 of the Dekkhan Agriculturists' Relief Act to grant instalments. Mr. Justice Heaton said :—

" In this case the First Class Subordinate Judge of Nasik has applied section 20 of the Dekkhan Agriculturists' Relief Act to the case of a judgment-debtor who was not an agriculturist when the decree was obtained, but who by discarding trade and limiting himself more exclusively to profits in land had become an agriculturist at the time of the execution. We do not think that he was empowered to do this...It seems to us to be quite clear that

[1] (1913) 37 Bom. 486 at p. 487.

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DEVU JETIRAM v. REVAPPA SATAPPA.

section 20 cannot apply to the case of a person who was not an agriculturist when the decree was obtained, whatever his status may be thereafter when execution comes to be taken out against him."

It has been argued that section 20 of the Dekkhan Agriculturists' Relief Act expressly refers to a decree passed against an agriculturist, whether before or after the Act came into force, while section 15 B only refers to decrees for redemption, foreclosure or sale in suits of the descriptions mentioned in section 3, clause (*y*) or clause (*z*), and consequently the fact that a defendant, or any of the defendants, was not an agriculturist at the time the decree was passed, but became one thereafter, does not prevent his being a party to a suit of that description. But we think that considering the nature of the Act, the description of "suit" in section 3 is not confined to the relief claimed in the suit, but also includes the status of the parties. Otherwise the result would be that in all suits for redemption, foreclosure or sale, if subsequently the defendant brought himself within the definition of an agriculturist, he would be entitled to the benefit of section 15 B, and we do not think that was the intention of the Legislature, or that is what the law enacts. We think, therefore, that the decision of the Court below was correct and the appeal ought to be dismissed with costs.

Appeal dismissed.

R. R.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Coyajee.

1922.

February 13.

RAJARAM SITARAM POTPHODE AND OTHERS (ORIGINAL DEFENDANTS), APPELLANTS *v.* JAGANNATH GOVINDRAO YESHWANTRAO (ORIGINAL PLAINTIFF), RESPONDENT*.

Khoti Settlement Act (Bombay Act I of 1880), sections 20, 21—Decision of Recording Officer—Finality—Entry in Settlement Register by itself not conclusive.

* Second Appeal No. 564 of 1921.