

1903  
 APRIL 23.  
 MAY 15.  
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 PRIVY  
 COUNCIL.  
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 30 C. 872=30  
 I. A. 154=7  
 C. W. N.  
 729=5 Bom.  
 L. R. 490=  
 8 Sar. 503.

whithersoever one pleases; but imprisonment is something more than the mere loss of this power; it includes the notion of restraint within some limits defined by a will or power exterior to our own." Williams, J., speaks of imprisonment as being "entire restraint," and Patteson, J. adds, "imprisonment is, as I apprehend, a total restraint of the liberty of the person for however short a time, and not a partial obstruction of his will, whatever inconvenience it may bring on him." The old authorities cited in that case are to the same effect.

In their Lordships' opinion it is perfectly clear that the appellant's imprisonment did not last one moment after he was liberated on bail. The very object of granting bail was to relieve him from imprisonment. Immediately after his liberation he [880] might have brought a suit for false imprisonment—and possibly he might have succeeded in obtaining some damages. Having failed to bring his suit within one year from the date of his liberation, he is now barred by the law of limitation.

Their Lordships will therefore humbly advise His Majesty that the appeal should be dismissed.

The appellant will bear the costs of the appeal.

*Appeal dismissed.*

Solicitor for the appellant: *L. P. E. Pugh.*

Solicitor for the respondent: *The Solicitor, India Office.*

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 30 C. 880.

#### APPELLATE CIVIL.

DEOKI SINGH v. LAKSHMAN ROY.\* [12th June, 1903.]

*Land Registration—Land Registration Act (VII B.C. of 1876) ss. 42, 44, 78—Registration of share in an estate—Share in specific mouzas in an estate.*

The Land Registration Act (Bengal Act VII of 1876) provides for the registration by proprietors or mortgagees of their shares in an estate, but does not make it incumbent upon them to register their shares in specific mouzas or other portions of land within the estate.

*Parashmoni Dassi v. Nabokishore Lahiri* (1) followed.

[Ref. 38 Cal. 512=13 C. L. J. 698.]

SECOND APPEAL by the plaintiffs, Deoki Singh and another.

The mortgagors of the plaintiffs and of their co-sharer defendants had their names registered as the proprietors of a three-anna [881] share in three mouzas—Bausapali, Karant and Dhatura—comprised in a single revenue-paying estate. Then by an amicable arrangement between all the proprietors, the said mortgagors took a ten-anna share in one of the mouzas and a five-anna share in another in lieu of the said three-anna share in all the three mouzas. Thereafter they gave a *zarpeshgi* lease in respect of a moiety of their share to the plaintiffs and the other moiety to the co-sharer defendants. The plaintiffs had their names registered as mortgagees under the provisions of s. 44 of the Land Registration Act with respect to the said three-anna share in the

\* Appeal from Appellate Decree No. 475 of 1901, against the decree of B. C. Mitter, Subordinate Judge, Saran, dated Dec. 15, 1900, reversing the decree of Pankaj Kumar Chatterjee, Munsif of Saran, dated July 27, 1900.

(1) *Ante*, p. 773.

three mouzahs. It was proved that the plaintiffs and the co-sharer defendants and their mortgagors used to recover rent from the tenant-defendants according to the terms of the amicable arrangement. The plaintiffs instituted this suit in the Court of the Munsif of Saran, for recovering arrears of rent from the tenant-defendants, who decreed the suit in favour of the plaintiffs, holding that s. 78 of the Land Registration Act was no bar to the suit; but on appeal the Subordinate Judge held that, having regard to the provisions of that section, the plaintiffs were not entitled to institute this suit.

Babu *Biraj Mohan Mazumdar* for the appellants.

Babu *Dwarka Nath Mitter* for the respondents.

PRATT AND MITRA, JJ. The plaintiffs and their co-sharer defendants obtained a *zarpeshgi* lease from the proprietors, who are the registered holders of a three-anna odd share in three villages. By an amicable arrangement between all the proprietors, the plaintiffs' lessors obtained a ten-anna share in one of the villages and a five-anna share in another in lieu of the said three-anna odd share in all the three mouzahs. The plaintiffs sued for arrears of rent as for ten-anna share in one village and five-anna in another; the suit has been dismissed on the ground that it is not maintainable under section 78 of the Land Registration Act, although the defendants have been paying rent on that basis without objection for many years.

We think that the view taken by the Subordinate Judge is not correct. The Act while providing for the registration by [882] proprietors of their shares in an estate does not make it incumbent upon them to register their shares in specific mouzahs or other portions of land within the estate.

The plaintiffs as well as their lessors have been duly registered with respect to a three-anna odd share in all three mouzahs comprising the estate, and they have therefore complied with the requirements of section 42 of the Land Registration Act, and their position is not affected by the fact that under an amicable arrangement their shares have been differently allocated so as to give them larger shares in two mouzahs than their registered interest and no share at all in the third mouzah.

The same view was taken by another Division Bench of this Court in *Parashmoni Dassi v. Nabokishore Lahiri* (1).

The decree of the Lower Appellate Court is set aside, and that of the Munsif is restored with costs throughout.

*Appeal allowed.*

30 C. 883.

[883] APPELLATE CIVIL.

NARSINGH DYAL SAHU v. RAM NARAIN SINGH.\*

[19th, 20th, 23rd, 24th, 25th and 26th March, and 1st April, 1903.]

*Lease, construction of—“Istemrari mokurari,” meaning of—Conduct and intention of parties—Local custom—Extrinsic evidence, admissibility of—Estoppel by misrepresentation—Recognition of succession to tenancy—Relevant fact—Evidence Act (I of 1872), s. 11, cl. 2.*

\* Appeal from Original Decree No. 43 of 1902, against the decree of Nepal Chandra Bose, Subordinate Judge of Hazaribag, dated Oct. 10, 1901.

(1) *Ante*, p. 773.