

Before Sir Richard Couch, Kt., Chief Justice, and Mr. Justice Mitter.

MUTU (PLAINTIFF) v. VEERAPAH CHETTY (DEFENDANT.)*

Appeal—Burmah Recorder's Court—Value of Suit—Act XXI of 1863, s. 27.

1872
Feb. 26.

THE question in this case was whether an appeal lay to the High Court from the decisions of the Recorder of Rangoon under s. 27 of Act XXI of 1863, where the plaintiff valued the timber for which he was suing at Rs. 1,590; but valued the appeal at Rs. 3,100.

Mr. *Fergusson*, on behalf of the respondent, took the preliminary objection that no appeal lies in this case, since the value of the timber, as stated in the plaint itself was under Rs. 3,000. There is no appeal in such a case under s. 27 of Act XXI of 1863.

Mr. *Ingram* for the appellant.—An appeal lies because the plaintiff has a right to put his own valuation upon his goods. The question is not what the real value of the thing is, but what the plaintiff values it at. It would be detrimental to the public revenue if it were held that the plaintiff could not put his own valuation upon the subject-matter of his suit.

COUCH, C. J.—I think no appeal lies in this case. Under s. 27, Act XXI of 1863, the value of the suit must exceed 3,000 rupees before an appeal can lie. The suit is stated to be a suit to establish the plaintiff's right to a quantity of timber, and, at the conclusion of the plaint the plaintiff says that he now brings a regular suit to establish his right to the said property. It was brought under s. 246, Act VIII of 1859. There is no claim for damages, and he says that the timber was valued at 1,590 rupees. That therefore is the amount or value according to his own statement of this suit; and he cannot, by valuing it at 3,100 rupees, when his own statement shows that the value is only 1,590 rupees and the difference is made up by damages which he does not claim in the suit, obtain a right of appeal to this Court. We reject the appeal with costs (1).

* Regular Appeal, No. 184 of 1871, from a *déclée* of the Recorder of Rangoon, dated the 29th May 1871.

(1) See The Burma Courts Act (VII of 1872), s. 42.