

admitting of the construction that the subject-matter in dispute is the subject-matter in dispute in the suit, we ought to adopt it. If the intention was to make so important an alteration with regard to the jurisdiction in appeal as the other construction would be, it ought to have been expressed more clearly.

I think, therefore, that the appeal mentioned in the reference by the Deputy Registrar ought to be admitted, and the other appeals in which this question has been raised will be brought on for hearing in the ordinary course.

BAYLEY, J.—I am of the same opinion.

MARKBY, J.—I am of the same opinion. I think the construction put by the Chief Justice on the section in question is the right one. It is quite true that L. S. Jackson, J., and myself, in considering this same question, had decided that the appeal, whenever it was for a sum less than Rs. 5,000, must go to the District Judge, but the matter has been now much more fully argued, and I think that the inconvenience which would arise under s. 348, pointed out by the Chief Justice, is a good ground for our holding that the Legislature did not intend to alter the practice existing at the time the Act was passed.

AINSLIE, J.—I concur.

Appeal admitted (1).

(1) *Before Mr. Justice Bayley and Mr. Justice Mitter.*

RAI DHANPAT SINGH BAHADUR
(PLAINTIFF) v. MADHUMATI DEBIA,
alias JHUTU DEBIA (DEFENDANT).
The 30th July 1872.

Appeal from order in execution of decree where the amount exceeds Rs. 5,000, but the amount in suit was less than Rs. 5,000.

Mr. Allan and Baboos Srinath Das and Rash Behari Ghose for the appellant.
Baboo Anand Chandra Ghosal for the respondent.

* Miscellaneous Special Appeal No. 164 of 1872 from an order of the Judge of Dinajpore, dated the 23rd April 1872, affirming an order of the Subordinate Judge of that district, dated the 29th December 1871.

(a) *Ante* p 190.

MITTER, J.—We think this case falls within the purview of the Full Bench decision in the case of *Duli Chund (a)* passed on the 11th July last. In that case it was unanimously held by the Full Bench that the words "subject-matter in dispute," used in the 22nd section of Act VI of 1871, meant the subject-matter in dispute in the original suit. In the present case the original suit was for a sum below Rs. 5,000, and the decree also which is now sought to be executed was for a sum below that amount. An execution proceeding must be considered as a more

1872

IN THE
MATTER OF
THE APPEAL
OF DULI
CHUND.