

for the purpose of making that decision in terms accord with the intention of the Court entertained at the time of passing it: for instance, to correct verbal errors, or otherwise to make the formal decree an accurate expression of the judgment which the Court intended to pass. But I am of opinion that an inferior Court of limited jurisdiction does not possess the general power of reviewing its own decision which the Judge appears to think that every Court necessarily does possess. I may say that even the Court of Chancery in England, whose powers are as general as the powers of a Civil Court well can be, does not exercise the power of reviewing its own judgment except when error of law is apparent on the face of the judgment, or when new matter is brought to its notice which could not have been adduced before it at the time when the decree was made (1).

On the whole then it seems to me as I have already said that the Zillah Courts have not got the general power of reviewing their own judgments which would be necessary in order to support the exercise of jurisdiction which the Judge here has affected to make. It follows therefore that the admitting of the review was in this respect *ultra vires*, and the rule setting aside the order will be made absolute with costs.

Rule absolute.

Before Mr. Justice Mitter and Mr. Justice Birch.

SANTIRAM PANJA AND OTHERS (PLAINTIFFS) v. BYCUNT PANJA
AND OTHERS (DEFENDANTS).*

1873
March 7 &
15.

*Right of a Shareholder in Land to Measurement—Beng. Act VIII of 1869,
ss. 25, 37, and 38.*

A shareholder in a joint undivided estate cannot bring a suit under s. 37 of Beng. Act VIII of 1869 for the measurement of his share.

THIS was a suit for measurement of certain lands under s. 37 of Beng. Act VIII of 1869. The plaintiffs held their share

(1) See *Perry v. Phelps*, 17 Ves., 178; Mitford on Pleading, 90; and Smith's Chancery Practice, 712 and 811.

* Special Appeal, No. 866 of 1872, from the decree of the Judge of Midnapore, dated the 14th March 1872, reversing a decree of the Additional Sudder Munsif of that district, dated the 22nd September 1871.

1873

SANTIRAM
PANJA
v.
BYCUNT
PANJA.

as patnidars from the original owners of a twelve-anna share of a joint undivided estate. The remaining four-anna share was in the khas possession of the other shareholders.

The defendants admitted that the plaintiffs were entitled to a twelve-anna share in the lands in question, but contended that shareholders were not entitled to measure the lands comprised in their share. The Court of first instance held that the plaintiffs were entitled to measure the lands of the mouzah in suit, and the defendants were ordered to be present at the time of such measurement, and to point out the lands comprised within their respective holdings, and a decree was accordingly passed in favor of the plaintiffs with costs. From that decision the defendants appealed to the Judge of the district, and on appeal the Judge held that, as regards the question of a right to measurement, the case of *Moolook Chand Mundul v. Modhoosoodun Bachusputty* (1) decided that point in favor of the appellants, and allowed the appeal with costs.

(1) *Before Mr. Justice Lock and Mr. Justice Ainslie.*

MOOLOOK CHAND MUNDUL AND
OTHERS (INTERVENORS) v. MOD-
HOOSOODUN BACHUSPUTTY
(PLAINTIFF).*

The 30th June 1871.

*Beng. Act VI of 1862 s. 10—Right of a
Co-sharer to measurement—Act X of
1859, s. 112—Beng. Act VIII of 1869
—Right of a Co-sharer to distrain.*

*Mr. C. Gregory and Baboo Debendro
Nurain Bose for the appellants.*

*Baboo Unnoda Pershad Banerjee,
Chander Madhub Ghose, and Taruck
Nath Dutt for the respondent.*

The following judgments were delivered :—

Lock, J.—This was a suit under the provisions of s. 10 of Beng. Act VI of

1862 for the measurement of an estate in which the plaintiff alleges he holds an undivided 8-annas share.

The ryots, whose land it was sought to measure and assess, denied that they were tenants of the plaintiff, and Prem Chand and another intervened claiming to be in receipt of rent.

The first Court laid down two issues : 1st, whether the plaintiff had been in receipt of rents ; and, 2nd, whether Prem Chand had been in receipt of rent.

The Deputy Collector found both issues against the plaintiff, but on appeal the Judge reversed the judgment holding that “the intervenor’s plea that his ancestors and plaintiffs’ ancestors made a division or a partition is not even proved, nor is the date of such partition even given. Such a plea cannot, therefore, be entertained. Plaintiff purchased the estate in 1269 (1862) ; and as all parties admit his proprietary right to 8-annas share of the estate weich isheld ijmal, and that these

* Special Appeal, No. 126 of 1871, from a decree of the Additional Judge of Nudda, dated the 21st November 1870, reversing a decree of the Deputy Collector of that district, dated the 11th March 1870.