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case, the three years within which a suit may be brought to get rid of the award, is to be calculated from the date of the Survey Officer's award, or that of the final decision. The Judge has held that, because the Commissioner and the Board of Revenue had summarily thrown out the appeal, the only real award was that made by the Survey Officer, and that the plaintiff was, therefore, bound to sue within three years from the date of that award. On this point the special respondent has not addressed any arguments to the Court, and has left the question in our hands. We think that there can be no doubt about it. This being a suit brought for the purpose of contesting the justice of an award made by the Survey Authorities, also for the purpose of obtaining a declaration of the title of the party concerned, the period of limitation is to run (cl. vi., sec. 1, Act XIV. of 1859) for three years from the date of the final award or order in the case. There can be no doubt whatever that the final order is that of the Board of Revenue. The law admits an appeal successively from the award of a Survey Officer to his immediate superiors, and to the Commissioner and the Board of Revenue, and the fact that the Board summarily dismissed the appeal without entering into the merits of the case, does not make it the less a final order. In our opinion then, this suit, being brought within three years from the date of that order, was within time.

Before Mr. Justice L. S. Jackson and Mr. Justice Mitter.

TULSIRAM DAS v. MOHAMED AFZAL *alias* MIRZA.*

Survey Award—Limitation—Act XIV. of 1859, s. 1, cl. 6.

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A. and B. were similarly affected by a survey award. A. appealed, but B. did not. *Held*, in a suit to set aside the award, B. could not compute the period of limitation from the date of the order on A.'s appeal. Also *held*, B.'s co-sharers, who did not appear in the proceedings of award, if the award gave them a cause of action, ought to have sued within three years.—

THE Survey Deputy Collector demarcated certain lands in one plot as belonging to defendant's land. Two parties objected to this, Krishna Chandra Das and Bairagi Das. Krishna Chandra appealed to the superior authorities, and his appeal was

* Special Appeal, No. 2290 of 1867, from a decree of the Judge of Sylhet, reversing a decree of the Officiating Principal Sudder Ameen of that district

dismissed. Bairagi did not appeal, but now sued in the Court of the Principal Sudder Ameen of Sylhet, to set aside the award. It was objected that his suit was barred, not having been brought within three years of the Deputy Collector's decision. The Principal Sudder Ameen, however, held, that as Krishna Chandra had appealed, and his interests were co-ordinate with those of Bairagi, the latter could compute the period of limitation from the date of the order dismissing Krishna Chandra's appeal, the Deputy Collector having treated these cases as one. The Judge, on appeal, held, that Bairagi could not profit by Krishna Chandra's appeal, they not being co-parceners. Certain co-sharers of Bairagi's, who now sued with him, alleging that they were no parties to the survey award, were held by the Judge to be, nevertheless, bound thereby. *Harlal Roy v. Surja Narayan Roy* (1).

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On special appeal the same points were taken as had been urged below.

Baboo *Gopal Lal Mitter* for appellants.

Baboo *Debendra Nath Bose* for respondent

The judgment of the Court was delivered by

JACKSON, J.—This is a suit to set aside a survey award, and obtain a declaration of right, that is, confirmation of possession in the land comprised in that award. It appears that the land affected by the award belonged to a variety of parties, one of whom was Krishna Chandra, another Bairagi Das, and there were other parties who were his (Bairagi's) co-parceners. Krishna Chandra, one of those who were affected, appealed against the survey award, but Bairagi Das did not so appeal. The present suit, however, is on the part of Bairagi Das and his co-sharers. The lower appellate Court has held that the suit is barred, because it was not brought within three years of the date of the final award against them. They maintain that the suit having been brought within three years of the decision on the appeal of Krishna Chandra Das, it is not barred by the law of limitation. It appears to us, however, that they are not entitled to the benefit

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of Krishna Chandra's appeal. His rights and those of the present plaintiffs were distinct and separate.

Then a separate question arises as to the plaintiffs other than Bairagi Das. They contend that they were not parties, *i. e.*, they did not appear before the Survey Authorities; and as they were not parties to that award, they are not bound to bring their suit within three years from its date. In advancing this, they cut away all the ground upon which their present action is based. If they were not parties to that award, and, consequently, were not affected by it, and, further, were not dispossessed, they have no cause of action whatever. If, on the other hand, the mere award gives them a cause of action (for they have no other), then their suit must have been instituted for the purpose of getting rid of that award, and therefore they must sue within the three years prescribed by the law. It appears to us, then, that all parties are barred, and that the decision of the lower Court is right. The special appeal is, accordingly, dismissed with costs.

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Before Mr. Justice Bayley and Mr. Justice Macpherson.

GIRIJA SINGH v. GIRIDHARI SINGH.

Compulsory Registration—Priority—ss. 50 and 100 of Act XX. of 1866.

See also
 Chap X
 Act III of
 1877.
 Ind. L. R.
 4 Bomb. 126.
 5 Cal. 336.
 7 Cal. 570.
 2 All. 431.
 2 N. W. P. 37.
 12 Bomb. 241.
 15 B. L. R. 294.
 6 Mad. 391.
 1 Bomb. 10.
 7 B o m b.
 00.45.

A. purchased certain lands in 1866, and duly registered his bill of sale. B. had purchased the same lands in 1855, from the persons through whom A.'s vendors made their title, and had been in possession ever since, but had not registered his bill of sale, as he might have done, under section 100 of Act XX. of 1866. A. sued to obtain possession. *Held*, B. was not bound to register, and his title was good against A.

This was a suit to obtain possession of 2 beegahs and 10 cottahs of jageer land, which were claimed under a kubala, or bill of sale, dated 29th October 1866.

The defendant, Gauri Sankar, alleged that he had purchased the property on the 20th Bysak 1262, F. S. (April or May 1855) and had been in possession thereof ever since under a kubala of that date.

The Moonsiff found that the sale to Gauri Sankar was not proved, and that the bill of sale was a fabrication; that,

Special Appeal, No. 2573 of 1867, from a decree of the Principal Sudder Ameen of Gya, reversing a decree of a Moonsiff of that district.