

1869

Feb'y. 3.

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

PYARI MOHAN MOOKERJEE (PETITIONER) v. KINA BEWA

{OPPOSITE PARTY.}*

Stamp—Act XXVI. of 1867—Act X. of 1859,—s. 25.

An application under section 25, Act X. of 1859, for the assistance of the Collector in rejecting a ryot, is not a suit; and, therefore, the Revenue Courts should receive such petitions engrossed on a Stamp Paper of the value of eight annas.

Baboo *Mahendra Lal Shome* for petitioner.

THE facts sufficiently appear in the judgment of the Court, which was delivered by :

JACKSON, J.—This an application on behalf of Pyari Mohan Mookerjee, for a precept or order of this Court, directing the Deputy Collector of Serampore to receive upon a stamp paper of the value of 8 annas, an application made under section 25 of Act X. of 1859, for the assistance of the Collector in rejecting a ryot. It appears that such an application was presented by the Petitioner to the Deputy Collector upon a stamp of 2 rupees. The Deputy Collector referring to a Circular Order of the Board of Revenue issued in September 1867, observes that such applications were to be deemed plaints; and he, accordingly, considered that the application in question required a stamp of 8 rupees, and refused to receive the application unless that amount of stamp duty were made up.

I observe that the Board of Revenue in the Circular Order in question directed that such applications as this were to be deemed plaints until the question should be otherwise judicially determined. I find that in *Phillip v. Shibnath Maitra* (1), a Full Bench of this Court expressly held that applications of this nature were not suits, consequently this point has been already

* Motion, No 90 of 1869, from an order of the Collector of Hooghly, affirming an order of the Deputy Collector of Serampore, dated the 28th December 1868.

(1) Case No. 7 of 1862; 1st July 1863.

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decided judicially. The Board of Revenue probably were not aware that such was the case.

And I see nothing in Act XXVI. of 1867, the new Stamp Act, which at all affects the ruling of the Full Bench upon this point. The Schedule B annexed to that Act does not lay down any new rule as to what are to be considered plaints, and what applications. In fact, as pointed out by the vakeel of the petitioner, the words relating to this subject in the Schedule annexed to Act XXVI. correspond exactly with those in the Schedule annexed to Act X. of 1862.

I think, therefore, that the Revenue Courts ought to receive such applications, as the present one, upon a stamp of 8 annas. We think it probable that on being made aware of the opinion of this Court on the matter, the Deputy Collector will be prepared to receive the application. But if the Revenue Courts should, after further consideration, still decline to receive the application otherwise than on stamp paper of the value required for plaints, the petitioner may renew his application to us; and we shall be prepared to make such further order in the matter as may be necessary under our powers of superintendence.

Before Mr. Justice Loch and Mr. Justice Glover.

RANI SHAMASUNDARI DEBI (ONE OF THE DEFENDANTS) v. DUKHU MANDAL AND OTHERS (PLAINTIFFS).*

1869
Feb'y. 6.

Master and servant—Trespass.

The appellant, having obtained a decree for *has* possession of a share in a *zemindari*, had refused to recognise the ryots whom the farmers under her, co-sharers had settled in the estate; and her servants cut and carried off the crops of these ryots.

Held, by GLOVER, J., that the appellant was liable for the acts of her servants which were done in furtherance of her known wishes, and for her benefit.

* Special Appeals, Nos. 2000, 2001, 2005, 2010, and 2011, from the decisions of the Officiating Judge of Moorshedabad, dated the 16th April 1868, affirming the decisions of the Principal Sudder Ameer of that district, dated the 30th December 1867.