shall, if practicable, be served personally on the under-tenant or ryot, or that, if for any reason it cannot be so served, it shall be affixed at his usual place of residence in the district in which the land is situated, or, if he have no such place of residence, at the mal kutcherry, &c.

The question to be determined now is, whether there was personal service within the meaning of this Section. It is not found expressly that the person upon whom the notice was served was the "general agent of the defendant who is a purdah lady managing all her affairs. Even if that had been found, I do not think it would have been sufficient. It is found merely that the defendant had charged this tenure with a certain amount to the father of the person upon whom the notice was served: that the person upon whom the notice was served was collecting the surplus rent for this lady; and that he is called a gomastah. It was served upon him, not at the premises the subject or the action, but at some factory.

It appears to me that that was not personal service on the ryot. The act does not say that the notice shall be served personally upon the under-tenant or ryot or his agent, but upon the under-tenant or ryot. The notice in this case was not served personally on the under-tenant or ryot, and if, for any reason, it was shown that it could not be served personally upon her, then it ought to have been served by being affixed at her usual place of residence in the district, or, if she had no such residence, in the manner prescribed by the Act. That not having been done, I do not think that the notice can render the tenant liable to be enhanced.

It is not for us to determine what the law ought to be. We have only to administer the law as we find it. It the law says that, if the notice cannot be served personally, it shall be served in some other manner. we must see if the notice has been served in that particular manner.

Under the circumstances, I think that the decision of the first Court was right that the notice was not served, and, consequently, that the defendant was not liable. The decision of the Judge will be reversed with costs.

Jackson, J.—l am. of the same opinion. I would only add this, that there are words in the judgment of the Lower Appellate Court whicjj might seem to amount to a finding on his part that personal service had been effected. He says, " I cannot think that appellant was unaware of the notice." These words may be taken to mean that notice was served personally in some w*y or other. But a vague finding of that sort is not sufficient. The Judge must find that the notice 'was served in or before the month of Cheyt. It cannot be presumed that the supposed agent, the witness Shustee Bhur Deb, gave- a receipt on the very last day of the month of Cheyt; and it certainly cannot be supposed, and the Judge cannot be supposed to have found that that notice was served within that month.

I also desire to observe that the decree of the Lower Appellate Court is by no means drawn up with that degree of precision and regularity with which it ought to have been under the Civil Procedure Code. Section 360 prescribes that the decree must specify "clearly the relief granted or other determination of the appeal." In this case the Judge merely says, "I reverse the order of the Lower Court in the matter of non-service of notice, and give a decree with costs in favor of plaintiff, respondent." The decree should always be properly drawn up in such terms as to leave no doubt of what the Appellate Court intended to award.

In the present case the Judge says, "I give a decree with costs." Does he mean a decree for the whole thing claimed in the plaint, or for the amount which the Lower Court had, in the first instance, found the plaintiff entitled to (that decree having been altogether set aside), or for what?

I think it important that the Lower Courts should take care that their decrees are explicit in their effect, as well as in accordance with their judgments.

Peacock, C.J.—l entirely agree in the remarks of my Hon'ble colleague in regard to the decree, and think that, if we had. to decide the case upon that ground, we should have been obliged to remand it in consequence of the vague terms in which the decree has been drawn up.

The 3rd January 1867.

Present :

The Hon'ble Sir Barnes Peacock, *Kt., Chief Justice,* and the Hon'ble L. S. Jackson *Judge.*

Limitation—Minor.

Case No. 2360 of 1866.

Special Appeal from a decision passed by Baboo Kadernath Banerjee, Officiating Additional Principal Sudder Ameth of

East Burdwan, dated the gth August 1866, affirming a decision passed by ^Baboo Bhooputty Roy, Officiating Sudder Ameen of that District, dated the jjth November /86j.

Radhamohun Gowee (Defendant), *Appellant,*

versus

Mohesh Chunder Kotwal and others (Plaintiffs), *Respondents-*

Baboo Nil Madhub Sein for Appellaat-

Baboos Nobo Kishen Mookerjee and *Umbica Churn Banerjee* for Respondents.

The mere fact of a plaintiff not suing within 3 years of his attaining majority will not, in cases where Act XIV. of 1859 allows a general limitation of 12 years, bar his suit if brought within 12 years of the time when the cause of action accrued.

Peacock, C.J.—THK Principal Sudder Ameen seems to have misunderstood the case which he has cited from the 5th Vol. of the Weekly Reporter, p. 219. In that case it was held that the mere fact of a plaintiff not suing within 3 years of his attaining majority will not, in cases where Act XIV. of 1859 allows a general limitation of 12 years, bar his suit if brought within 12 years of the time when the cause of action accrued. That is to say, he may bring it either within 3 years from the time of his attaining majority, or within 12 years from the time when his cause of action accrued, whichever ended last.

In this case it is not found that the plaintiff brought his suit within 3 years after attaining majority, and, therefore, it was necessary for him to show that he brought his suit within 12 years from the time of his ispossession. The Principal Sudder Ameen as not entered into the question as to when he was dispossessed, and when the cause of action actually accrued, because he thought it unnecessary to do so; he having misapprehended the decision above quoted, and thought that, whenever the cause of action accrued, the plaintiff would be entitled to sue within 12 years from the time of attaining his majority.

The case must be remanded in order that the Principal Sudder Ameen may try whether the suit was brought within 3 years after attaining majority, or within 12 years from the time when the cause of action accrued.

The 3rd January **1867.**

Present :

The Hon'ble F. B. Kemp and W. Markby, *Judges.*

Sale in execution—Bona fide purchaser.

Case No. 520 of 1866.

Special Appeal from a decision passed by Mr. H. Richardson, Additional Judge of Jessore, dated the /jth December 1865, affirming a decision passed by Baboo Modoosoodun Ghose, Sudder Ameen of that District, dated the 21st December 1864.

Baboo Huronath Roy and others (Defendants), *Appellants,*

versus

Mothooranath Acharjee (Plaintiff), *Respondent.*

Baboo Bungsheedhur Sein for Appellants.

Mr. R. E. Twidale and *Baboo Nilmoney Sein* for Respondent.

A, in satisfaction of a decree against *B,* caused the sale of a tenure styling it a *jote jumma. C,* the superior zemindar, purchased the tenure as such for 900 Rs., but, failing to pay the balance of the purchase-money, the tenure with the same description was resold and purchased by *C* for I rupee. *A,* on discovering his mistake in having advertizedthe property as a *jote jumma* when in fact it was a *Shamilat talook* (a more permanent and valuable holding), caused a sale of *B's* rights and interests in the *Shamilat* talook, and, having purchased them himself, was put into possession. *A* theii sued for rent under Aft X. of 1859 when *C* intervened as in enjoyment of the rent, and *A's* suit was dismissed. *A* now sues toestablish his right to the *Shamilat* talook. HELD that *A* was entitled to succeed as he had acted *bond fide,* and that C could not be considered an innocent purchaser for a valuable consideration, but a purely speculative purchaser, as he must know that no such tenure as that which he purchased under the denomination of *jote jumma* had any real existence.

Kemp, J.—THIS was a suit to **recover** possession of a tenure called a shamilat talook, from which it was alleged **that the** plaintiff had been ejected by the **defendant.**

The plaintiff, in satisfaction of a **decree** held by him against one Gopeenath Roy, judgment-debtor, caused the sale of **the** tenure, the subject of this suit, styling **it** a "jote jumma." The defendant, who is **also** the superior zemindar, purchased the tenure under the above description for Rupees 900; but, failing to pay the balance of the purchase-mojey, the tenur"e with the same description^yas re-sold and purchased by **the** defendant for the nominal price of 1 rupee.

The plaintiff, the decree-holder, finding thnt he had made a mistake fn advertizing the property as a jote jumma wnen in fact it was a shamilat talook, a holding bf a