

shown for its admission ; though in the present suit, which is in some sort a continuation of the former, we are not conclusively bound by the decisions come to in a former, still we have given those decisions as being the judgments of competent tribunals on a point then before them that consideration to which they are entitled.

On the view of the case expressed above, we are of opinion that the plaintiff's claim is a valid one, and that the decision of the principal sudder ameen decreeing the same is correct. We therefore confirm the decisions of the lower court with cost.

CASE No. 485.

Suit laid at Company's rupees 9,216-11-4.

Plaintiff Sheo Dutt Jha sues defendant Ishwurreenund Jha for the sum of rupees 9,216-11-9, principal and interest due to him under an agreement entered into between the parties.

JUDGMENT.

This suit arose out of the same transaction as that regarding which a decision has this day been passed in Case No. 486 of 1853, it is only necessary here to remark that the defendant in this suit Ishwurreenund Dutt Jha, sued the plaintiff, to set aside an order of the criminal authorities, enforcing an engagement entered into before arbitrators by defendant, and to obtain a refund of rupees 5,000, which he had paid under that pressure to the plaintiff. That suit was on appeal before this court, on the 23rd December 1850, decreed on the ground that the enforcement by the criminal authorities of the payment of a sum of money, with a view to a settlement by compromise of a dispute of right, was unauthorised and illegal, the court therefore ordered the sum exacted to be refunded to the party from whom it was taken.

The defendant in that suit has now sued in the civil court for the sum of rupees 5,000, which, on the ruling of the court, was illegally exacted from Ishwurreenund Dutt Jha, under the authority of the criminal court. Plaintiff rests his claim upon a verbal agreement between the defendant and himself, as the circumstances of the case are fully detailed in the decision on the appeal in case No. 486 of 1853, it is unnecessary to reiterate them here, and the facts of the two cases being similar, the decision on them both will be of the same character. We consequently confirm the decision of the principal sudder ameen passed in this case with costs.

[518] *The 7th June, 1856.*

PRESENT : J. S. TORSENS AND C. B. TREVOR, ESQRS., *Extra Judges.*

PETITION No. 1394 OF 1854.

[*Co-sharers—Suit for rent by one co-sharer—Plea of payment to another co-sharer—Parties to suit—No enquiry about alleged payment—Remand.*]

Case remanded on ground of insufficiency of inquiry into an alleged payment of the rent sued for by a co-lessee, and as to the defect of parties from the absence of that co-lessee.

Vakeel of Petitioner—Baboo Ramapersaud Roy.

Vakeel of the Opposite Party—Moonshee Abbas Alee Khan.

IN THE MATTER OF THE PETITION OF THOMAS FIGOU, filed in this court on the 7th November 1854, praying for the admission of a special appeal from the decision of Moulvee Haneef Khan, principal sudder ameen of city

Patna, under date the 12th July 1854, affirming that of Moulvee Moheecooddeen, acting additional sudder moonsiff of that district, under date 27th July 1853, in the case of Musst. Chundrawuttee, plaintiff, *versus* Thomas Pigou, defendant.

It is hereby certified that the said application is granted on the following grounds:—

Plaintiff sued the defendant, Mr. Thomas Pigou, for rent of certain land in the city of Patna. Defendant pleaded that the rent had been already paid to one Bolakee Lal, a coparcener of the plaintiff, who ought to have been party to the suit; that the estate, of which he was in charge, was under control of the registrar of the Supreme Court, and that the defendant was only acting as an agent on his part, the engagements which had been taken, having been in the name of Mr. John Pigou, deceased. The moonsiff overruled all these objections, considering that there was no necessity to make Bolakee Lal a party to the suit, and that the agent was liable for the rent under the engagement of the deceased John Pigou.

On an appeal to the principal sudder ameen, he confirmed the moonsiff's orders on the ground that the rent sued for was unliquidated, but without going into the objections as to defect of parties and as to the payments which were alleged to have been made to the absent coparcener Bolakee Lal. The special appeal is preferred on the ground that the principal sudder ameen had neglected to try any issues on the points raised in appeal respecting the absence of Bolakee Lal, or the non-liability of defendant on account of his being merely the agent in charge for the Supreme Court officer. It is further urged that the original engagement for Mr. T. Pigou had never been produced.

We consider that it was incumbent on the principal sudder ameen, in trying the appeal, to determine the issue raised in respect to the absence of Bolakee Lal, who is stated to have received the rent from the defendant, especially as plaintiff admits that he is a [819] coparcener, though an unregistered one. The other pleas raised as to the non-liability of the defendant, as being only the agent for the registrar of the Supreme Court, should also have been determined in appeal, and the kubooleut called for. We return the case for re-trial by the principal sudder ameen with advertence to the above remarks.

The 9th June, 1856.

PRESENT: J. S. TORRENS, C. B. TREVOR AND H. C. METCALFE, ESQRS.
Extra Judges.

CASE NO. 236 OF 1853.

Regular Appeal from the decision of Syed Ahméd Buksh, Principal Sudder Ameen of Rungpore, dated 4th April, 1853.

CALICHUNDER LAHOOREE (*Plaintiff*), *Appellant* v. PRUSONNOCOMAR TAGORE (*Defendant*), *Respondent*.

[*Suit for possession of land—Adverse possession—Assertion of title by defendant in his own right for over 12 years—Plaintiff's knowledge and acquiescence—Limitation—Adverse possession complete—Suit barred.*]

Suit held to be barred under the statute of limitation where the party suing for the lands had remained silent in the assertion of his title in them during a series of litigation to which he had originally been made a party, in the resumption and special commissioner's court, extending over a period far in excess of 12 years.

Vakeels of Appellant—Baboo Bungeebuddun Mitter and Mr. R. T. Allan.
Vakeels of Respondent—Baboos Ramapersaud Roy, Sumbhoonath Pundit, Kishen Sukha Mookerjea and Moonshee Ameer Alee.