

DECISIONS OF THE SUDDER DEWANNY ADAWLUT,
RECORDED IN ENGLISH, IN CONFORMITY
WITH ACT XII OF 1843.

VOLUME XIII (1857).

PART II—pp. 953 to 1965.

[953] *The 1st June, 1857.*

PRESENT.: C. B. TREVOR, E. A. SAMUELLS AND D. I. MONEY, ESQRS.,
Officiating Judges.

CASE NO. 521 OF 1856.

Special Appeal from the decision of Mr. C. McDonald, Principal Sudder Ameen of Bhaugulpore, dated 16th December 1854, reversing a decree of Syed Furzund Alee, Sudder Ameen of that district, dated 31st December 1852.

KAROO LAL (*Plaintiff*), *Appellant v. DATARAM (Defendant), Respondent.*

[*Lien—Pledge of property as security for debt—Creditor's right to follow property.*]

Held that the plaintiff, special appellant, has a lien upon the property of the debtor, Jowahir Tewaree, and can follow it into whosoever hands it may go. The decision of the principal sudder ameen directing that plaintiff's debt be satisfied from the sale proceeds of the property in deposit is reversed, and the property upon which the plaintiff holds the lien is declared liable to be sold in execution of plaintiff's decree.

Vakeel of Appellant—Moulvee Aftabooddeen Mahomed.

Vakeel of Respondent—Moulvee Murhamut Hossein.

THIS case was admitted to special appeal on the 8th November 1856, under the following certificate recorded by Messrs. C. B. Trevor and E. A. Samuells :—

“ Plaintiff, special appellant, lent one Jowahir Tewaree, rupees 425, taking as a security for the re-payment of the debt a mortgage of certain lands; subsequently the property in question was sold in execution of a decree against Jowahir, with full notice of plaintiff's lien on the property, and purchased by one Dataram. Plaintiff, petitioner, then brought his action for the arrear due to him, and the court of first instance dismissed his claim. The principal sudder ameen on appeal decreed the plaintiff's claim, directing that the debt be satisfied from the sale-proceeds in deposit in the adawlut, and released the purchaser from the suit.

“ Petitioner now appeals specially; and urges that he is entitled to a decree against the purchaser as possessor of the property on which he holds a lien; that the principal sudder ameen by not giving him a decree in this way has damnified him, inasmuch as the monies in deposit in the civil court are insufficient to meet his claim. We admit the special appeal to try whether, with reference to the above objection, the decision of the principal sudder

ameen should not be reversed and a decree be given against the present possessor of the property on which the petitioner holds a lien."

JUDGMENT.

On referring to the deed under which the debtor pledged his property to the plaintiff, we find that it is in the nature of a security bond for the repayment of the debt. The debtor at the same [954] time granted a lease of 60 beegas of land to the plaintiff for 11 years, and stipulated in express terms that meanwhile, or until the debt is paid, he will in no way alienate or dispose of the property. He has therefore in our opinion, under the pledge given, a lien on the property, and can follow it wherever it goes. We reverse that part of the principal sudder ameen's decision, which directs that the debt be satisfied from the sale-proceeds in deposit, and declares that in execution of the decree against the debtor, the property, upon which the plaintiff holds the lien, is liable.

The 1st June, 1857.

PRESENT: C. B. TREVOR, E. A. SAMUELLS AND D. I. MONEY, ESQRS.,
Officiating Judges.

CASE NO. 525 OF 1856.

Special Appeal from the decision of Moulvee Mahomed Nazim Khan, Principal Sudder Ameen of Dacca, dated 27th December 1854, affirming a decree of Baboo Obhoycoornar Dutt, Moonsiff of Nissiragunge, dated 31st June 1853.

SHAMSOONDUR SURMA CHUCKERBUTTEE AND KUMLAKANTH SURMA
CHUCKERBUTTEE (*Defendants*), *Appellants v.* JOOGULKISHORE
GOPE AND OTHERS (*Plaintiffs*), *Respondents.*

[*Joint suit by two persons for possession—Admission of defendant's title by one of the plaintiffs—Effect.*]

Two parties sued jointly for possession of an 8 annas share in a talook which was alleged to be the hereditary property of Ramdhone Mitter and of which Joogulkishore had purchased from Ramdhone a 4 annas share; the defendants in the suit pleaded that they had received the property in gift from Ramdhone's ancestors. Ramdhone afterward admitted the truth of defendants' statement and withdrew his claim.

Held, that the admission as to the gift made by their ancestors to the defendants, special appellants, stands good as regards the 4 annas sued for by him, Ramdhone, it cannot affect the rights of Joogulkishore his co-plaintiff; as far as regards the right of Joogulkishore the decision of the principal sudder ameen is correct, but that portion of his decree which decrees 4 annas of the property sued for to Ramdhone Mitter to which he has acknowledged that he had no valid claim, is reversed and the special appeal is decreed with costs against that person.

Vakeel of Appellants—Baboo Bhoobunmohun Roy.

Vakeel of Respondent, Joogulkishore Gope—Mr. R. Twidale.

Vakeel of Respondent, Ramdhone Mitter—Baboo Sreekanth Singh.

THIS case was admitted to special appeal on the 4th November 1856, under the following certificate recorded by Messrs. C. B. Trevor and E. A. Samuells:—

"The respondents, Ramdhone Mitter and Joogulkishore, sued jointly for possession of an 8 annas share in a certain talook, which was alleged to be the hereditary property of Ramdhone Mitter, and of which Joogulkishore had purchased from Ramdhone a 4 annas share. The defendants (special appellants) pleaded that they had received the property in gift from Ramdhone's ancestors. The moonsiff discrediting the evidence advanced in