

APPELLATE JURISDICTION (a)

Regular Appeal No. 63 of 1865.

SRI RÁJA SETA RÁMA KRISHNA RÁYU-
DAPPA RANGA RÁO BAHÁDURGÁRU, } *Appellant.*
Zamindár of Bobbily.....

SRI RÁJA VIJAYA RÁMA GAJATATY }
RÁJA BAHÁDURGÁRU, Zamindár of } *Respondent.*
Vizianagram

The intent of Section 26 of the Civil Procedure Code is to secure the definite statement of the subject and object-matters of the litigation, and the words, "so far as they can be ascertained," were not intended to compel a plaintiff to insert every name and title to which the defendant may conceive himself entitled.

The omission of the titles 'Honorable,' 'Maharájá' and 'Sultan' does not constitute such a misnaming of the defendant as to justify the dismissal of the plaint.

THIS was a Regular Appeal from the orders of Charles Collett, Civil Judge of Vizagapatam, dated 5th and 12th July 1865, rejecting a plaint presented by the appellant.

1865.
January 22.
R. A. No. 63
of 1865.

Advocate General, for the appellant, the plaintiff.

Mayne, and *Rajagopala Charlu*, for the respondent, the defendant.

The Court delivered the following

JUDGMENT :—The only question in this appeal is, whether under Section 29 of the Procedure Code the plaint has been properly dismissed because not containing the particulars required by Section 26 of the Code.

The contention of the defendant is that it ought to be dismissed and was properly dismissed, because a long string of titles, to which defendant alleges himself entitled, has not been inserted.

It seems to us that the plain intent of Section 26 is to secure the definite statement of the subject and object-matters of the litigation, and that the words "so far as they can be ascertained" were not intended to compel a plaintiff to in-

(a) Present : Frere and Holloway, JJ.

1866.
 January 22.
 R. A. No. 63
 of 1865.

sert every name and title to which the defendant may conceive himself entitled, but to obviate the supposition that a plaintiff should be held to more than a reasonable compliance with the section.

As to the description we are of opinion that the defendant has been correctly described as Zamindár of Vizianagram. As to the names we are by no means prepared to say that the omission of Honorable and Maharájá, and of the philologically incongruous title of Sultán, constitute such a misnaming of the defendant as to justify the dismissal of the plaint. The question seems to us rather one for a College of heralds than a Court of Justice. For ourselves we should, as a matter of courtesy, feel bound to give to any subject a title recognised by Her Most Gracious Majesty, and in India any title recognized by Her Majesty's Viceroy, and we have little sympathy with those who would withhold such marks of courtesy, but we cannot say, as a matter of law, that in our opinion there has been either a misnomer, or such an insufficient naming as would render the plaint liable to dismissal.

In Comyn's *Digest* there are numerous pleas of misnomer, but all refer to the question of certainty as to the person, and it will not be forgotten that the requirement of a certainty rather pedantic was the characteristic of English law at the period of those decisions.

Being of opinion that the section does not apply to a case of this kind, we are constrained to direct that the plaint be restored to the file.

We think that within the meaning of this section, a person is sufficiently named when he is called by names which are indisputably his and which can by no effect of ingenuity be mistaken for the names of another person, and we are not prepared to say that every title possessed by a defendant is a necessary part of such name.
