

*Before Mr. Justice Jackson and Mr. Justice White.*

1877  
Sept. 11.

SURDHAREE LOLL (PLAINTIFF) *v.* MANSOOR ALLY KHAN AND  
OTHERS (DEFENDANTS).\*

*Jurisdiction—Appeals—Sonthal Pergannas—Act XXXVII of 1855, ss. 2, 4  
—Act XIV of 1874—Act XV of 1874.*

The High Court has no jurisdiction to entertain appeals in civil suits tried in the Sonthal Pergannas.

THE facts of this case, so far as they are material, appear in the judgment of the Court.

Baboo *Kally Mohun Dass* for the appellant.

Baboo *Sreenath Doss* and Baboo *Gooroo Doss Banerjee* for the respondents.

JACKSON, J.—This is an appeal from the judgment and decree of Mr. C. T. Manson, Deputy Collector, also called Extra Assistant Commissioner, of Rajmehal, which is admittedly and entirely within the Sonthal Pergannas. The appeal is valued at Rs. 5,922.

By Act XXXVII of 1855 of the Governor-General in Council, the Sonthal Pergannas were removed from the operation of the general laws and regulations of the Bengal Code, except so far as was thereafter provided.

By s. 2 of that Act, the administration of civil justice was vested in officers to be appointed by the Lieutenant-Governor of Bengal. There was a proviso that all suits beyond the value of Rs. 1,000 were to be tried and determined, according to the general laws and regulations, in the same manner as if that Act had not been passed.

The 4th section declared that all decisions in civil suits passed by such officers to the extent of the powers conferred

\* Regular Appeal, No. 254 of 1876, against the decree of C. T. Manson, Esq., Extra Assistant Commissioner of Rajmehal, in Zilla Bhagalpore, dated the 24th of July 1876.

on them were final, and it was made lawful for the Lieutenant-Governor to direct that an appeal shall lie in any class of civil suits or criminal trials from any officer appointed under the Act to any other officer appointed under the same. There was separate provision made for appeals being allowed in like manner by the direction of the Lieutenant-Governor between the officers of those *pergannas* *inter se*, and authority was also reserved to direct that any class of criminal trials should be referred for sanction to the *Sudder Court*. The effect of these sections, it seems to me, was absolutely to take away the right of appeal under the general law in all civil suits tried and determined in the *Sonthal Pergannas*, save only in such cases as might be provided for by order of the Lieutenant-Governor of Bengal; and it does not seem to be the case that the Lieutenant-Governor, by his order, did make any case tried in the *Sonthal Pergannas* appealable to the *Sudder Court*. That was the state of the law down to 1874, when, on the 8th December 1874, Act XIV and Act XV were passed, the one called "the *Scheduled Districts Act*," and the other "the *Laws' Local Extent Act*." By the former of these Acts, the *Sonthal Pergannas* find their place among the *Scheduled Districts of Bengal*, and Act XXXVII of 1855 was repealed. By the second of these Acts, s. 3, the Acts mentioned in the first schedule, one of which is the *Code of Civil Procedure, Act VIII of 1859*, were declared to be in force throughout the whole of *British India* except the *Scheduled Districts*, and it is only by the provisions of the *Code of Civil Procedure* that, generally speaking, the right of appeal arises in civil suits and proceedings. That being the general state of the law, it would lie upon the appellant to show that, according to s. 8, cl. (c), of the *Laws' Local Extent Act*, that any Act or Regulation allowing general right of appeal had been previously extended, or had been declared to be in force, in any of the *Scheduled Districts*. That I think is not very likely, considering that the very essence of Act XXXVII of 1855 was to take away such appeals, and consequently it would be for the appellant to show that, by any other Regulation made before or since the passing of Act XV of 1874, an appeal to the *High Court* had been

1877

SURDHAREE  
LOLL  
v.  
MANSOOR  
ALLY KHAN.

1877  
 SURDHAREE  
 LOLL  
 v.  
 MANSOOR  
 ALLY KHAN.

specially allowed. Nothing of the kind has been brought to our notice. It appears to me, therefore, that, so far as our present information extends, we have no jurisdiction to entertain an appeal, and that the appeal must be disallowed. Considering first our want of jurisdiction, and in the next place that the objection which has been taken was suggested by the Court, we think the dismissal of the appeal should carry no costs.

WHITE, J.—It appears to me that we have no jurisdiction in this case. Under Act XV of 1874, the Sonthal Pergannas is one of the Scheduled Districts to which Act VIII of 1859, viz., the Civil Procedure Code, does not extend. Looking to the exceptions mentioned in s. 8 of Act XV of 1874, it is possible that, notwithstanding this, Act VIII of 1859 may, prior to Act XV of 1874 coming into force, or subsequent thereto, have been extended to, or declared to be in force in, the Sonthal Pergannas by the Governor-General in Council or the Local Government. But it is for the appellant to satisfy the Court on these points, which he has not done. *Primâ facie*, therefore, the jurisdiction of this Court is taken away, and the appellant not having shown that Act VIII of 1859 was, before or after 1874, extended to the Sonthal Pergannas, we must hold that we have no jurisdiction.

*Appeal dismissed.*

*Before Mr. Justice Birch and Mr. Justice R. C. Mitter.*

1877  
 July 6.

BHOOBUN CHUNDER SEN (ONE OF THE DEFENDANTS) v. RAM  
 SOONDER SURMA MOZOOMDAR AND OTHERS (PLAINTIFFS).\*

*Sale for arrear of Revenue—Suit to set aside—Fraud—Act XI of 1859—Limitation—Agent—Contract Act (IX of 1872), ss. 182 and 185—Form of Decree.*

When one of several co-sharers fraudulently contrived to have an estate brought to sale for arrears under Act XI of 1859, and purchased it in the *benami* of his son,—*Held*, that another co-sharer aggrieved by the sale could maintain a suit to have the property reconveyed, though the period limited by

\* Regular Appeal, No. 139 of 1876, against the decree of Baboo Nobin Chunder Ghose Roy Bahadoor, Second Subordinate Judge of Zilla Mymensingh, dated the 17th of March 1876.