

APPELLATE CIVIL.

*Before Sir Francis William Maclean K. C. J. E. Chief Justice and
Mr. Justice Holmwood.*

1907
Feb. 5.

DEONARAIN SINGH

v.

GUNI SINGH.*

*Appeal to Privy Council—Value of subject-matter of suit—Several suits
tried together and dealt with in one judgment—Aggregate value—
Civil Procedure Code (Act XIV of 1882) s. 596.*

A large number of suits were tried together and dealt with in one judgment both in the first Court and in the High Court, and leave to appeal to the Privy Council was granted in the cases where the amounts in dispute were over Rs. 10,000, on applications for leave to appeal in the remaining cases.

Held, that inasmuch as although, if each case were taken separately, the value was below Rs. 10,000, yet, if taken collectively, the aggregate reached that amount and the cases were all dependent upon the same judgment, and the cases fell within s. 596 of the Code of Civil Procedure, leave to appeal should be granted in each of the cases.

Khajah Ashanulla v. Karoonamoyi Chowdhry (1); *Toogulkishore v. Jotendro Mohun Tagore* (2); and *Byjnath v. Graham* (3) referred to.

APPLICATIONS for leave to appeal to His Majesty in Council.

A large number of suits for the recovery of possession of distinct parcels of land were tried together, dealt with in one judgment and were decreed in favour of the plaintiffs.

On appeals by the defendants, which were heard together and dealt with in one judgment, the decrees of the first Court were affirmed. The value of the subject-matter in dispute in each of three of these suits was over Rs. 10,000 and in one of these three a certificate had been granted on a previous application for leave to appeal to the Privy Council.


* Application for leave to appeal to His Majesty in Council, No. 30 of 1906.

(1) (1879) 4 C. L. R. 125.

(2) (1882) I. L. R. 8 Calc. 210.

(3) (1885) I. L. R. 11 Calc. 740.

Applications were subsequently made in all the remaining cases for certificates that they were fit cases for appeal to His Majesty in Council.

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Dr. Rashbehary Ghose (Babu Karunamoy Bose with him) for the petitioners contended that leave should be given in all the cases and relied on *Kokhine v. Snadden* (1) and the cases referred to in the judgment. In two of the suits the value was over Rs. 10,000 in each case and as to the remaining cases the aggregate of the values exceeded Rs. 10,000.

Babu Jogesh Chandra Roy (Babu Khetra Mohan Sen with him) for the opposite party contended that the cases in which the amount in dispute was admittedly below Rs. 10,000 could not be brought within s. 596 of the Civil Procedure Code and the proper course for the petitioners was to apply for special leave. The cases relied on are distinguishable, as here the plaintiffs in the several cases are different and the lands, which form the subject-matter of the several suits, are also different. He referred to *The Royal Insurance Co. v. Akhoy Coomar Dutt* (2) and *Maharaja Jagadindra Nath Bahadur v. Rani Hemanta Kumari* (3).

MACLEAN C. J. These are applications for certificates that the cases are fit for appeal to His Majesty in Council. There are a large number of suits. It appears that all these suits were tried together and were dealt with in one judgment, both in this Court and in the Court of the Subordinate Judge; and it also appears that, on an application for leave to appeal to His Majesty in Council, in case No. 33 of 1906, which was one of the cases heard with those now before us, a certificate has been granted. In that case the amount involved in dispute in both Courts was over Rs. 10,000, and, although the judgment was one of affirmance, a certificate was granted as the appeal involved substantial questions of law.

(1) (1868) L. R. 2. P. C. 50.

(2) (1901) 6 C. W. N. 41.

(3) (1901) 5 C. W. N. ccxiii.

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Now as regards the cases immediately before us, in two of them, viz, applications Nos. 30 and 31, the amount in dispute is over Rs. 10,000 and, as a certificate has been granted in the case I have just referred to, I think a certificate must also be granted in each of these cases. That is not disputed. We have only to deal with the remaining cases. Now what do we find? We find that, although, if each case be taken separately the value is below Rs. 10,000, yet if taken collectively the aggregate reaches that amount and the cases are all dependent upon the same judgment. In the special circumstances, I think we may fairly say that the case falls within section 596 of the Code of Civil Procedure, and that we should not be justified in preventing the parties from going up to the Privy Council. This view seems to be supported by the principles of the cases of *Khajah Ashanulla v. Karoonamoyi, Chowdhry* (1), *Joogul Kishore v. Jotendro Mohun Tagore* (2) and *Byjnath v. Graham* (3).

I feel fairly confident that, if we did not grant leave to the petitioners, the Judicial Committee would grant special leave: otherwise the result would be very anomalous.

I think therefore that a certificate must be granted in each of these cases.

HOLMWOOD J. I agree.

Certificate granted.

S. CH. B.

(1) (1879) 4 C. L. R. 125.

(2) (1882) I. L. R. 8 Calc. 210.

(3) (1885) I. L. R. 11 Calc. 740.