

CIVIL RULE.

Before Mr. Justice Mitra and Mr. Justice Caspersz.

RAMESHWAR SINGH

v.

RAGHUNATH SINGH.*

1908

Mar. 23.

Land Registration—Land Registration Act (Bengal Act VII of 1876) ss. 59, 63—Competent Court, meaning of, in s. 59—Jurisdiction—Revision by High Court, power of.

The High Court has jurisdiction under s. 622 of the Civil Procedure Code to revise an order made by a Civil Court under s. 59 of the Land Registration Act (Bengal Act VII of 1876).

Umatul Mehdi v. Kulsum (1) followed.

A Court having territorial, but no pecuniary jurisdiction, is not a competent Court within the meaning of s. 59 of the Act.

As soon as the certificate is sent to the Collector and he registers the names of the successful persons, the function of the Civil Court terminates and the High Court cannot thereafter interfere in the matter.

CIVIL RULE.

On the 7th of August, 1906 the petitioner purchased an eight-annas share in a certain mouza from one Mussamat Parijan, who again on the 24th of August, 1906 sold the said property to the opposite party, and they on the 29th of November, 1906 applied to the Collector of Gaya for registration of their names under Bengal Act VII of 1876 in respect of the said property. Thereafter on the 26th of February, 1907 the petitioner objected to the registration of the names of the opposite party and applied for registration of his own name in respect of the said property.

On the 21st of March, 1907 the Collector referred the case to the District Judge of Gaya under section 55 of the Act, who transferred it for determination to the Court of the Munsif of Gaya, who had jurisdiction to try suits valued up to Rs. 1,000, though the value of the subject-matter in dispute was admittedly more than Rs. 2,000.

* Civil Rule No. 3483 of 1907.

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After the Munsif had partially gone into the case, the petitioner on the 5th of August, 1907 applied to the District Judge for setting aside his previous order.

On the 1st of October 1907 the Munsif pronounced judgment in favour of the opposite party and against the petitioner and a certificate under section 63 of the Act was forwarded by the Court to the Collector, who on the 18th of December 1907 directed the names of the opposite party to be registered as the proprietors in possession. In the meantime on the 9th of December, 1907 a rule was obtained from the High Court on the opposite party to show cause, why the order of the Munsif should not be set aside on the ground that he had no jurisdiction to try the case; it was also argued that the High Court had no jurisdiction under section 622 of the Civil Procedure Code to revise the order of the Civil Court.

Dr. Rash Behari Ghose and Babu Chunder Sakhar Prasad Singh for the petitioner.

Babu Umakali Mookerjee and Babu Lachmi Narain Singh for the opposite party.

MITRA AND CASPERSZ JJ. In a matter arising out of a proceeding under the Bengal Registration Act, VII of 1876, a reference was made by the Collector under section 55 of the Act to the principal Civil Court in the District of Gya. The value of the property appears to have been over Rs. 2,000. The District Judge, on receipt of the reference, directed the Munsif to determine the question of possession or title to possession for the purpose of finding out whose name should be registered in the register of the Collectorate. An objection was made to the jurisdiction of the Munsif to try the case. The objection was, however, disallowed by the District Judge, and the Munsif pronounced his judgment in favour of the opposite party and against the petitioner before us. This order was made on the 1st October, 1907. Thereafter, and before any application was made to this Court, a certificate under section 63 of the Act was forwarded by the Civil Court to the Collector, and it appear

that, on the 18th December, 1907, the Collector directed the names of the opposite party to be registered in the register of estates as the proprietors in possession. In the meantime and on the 9th December, 1907, a rule was obtained from this Court on the opposite party to show cause why the order of the Munsif should not be set aside on the ground that he had no jurisdiction to try the case. The rule as worded would indicate that it was against the order declining to transfer the case, but it was really a rule against the order of the Munsif deciding the case in favour of the opposite party.

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The first question that we have to decide in this case is whether we have jurisdiction under section 622 of the Civil Procedure Code to revise the order of the Civil Court. We have no doubt that we have such jurisdiction. Section 62 of Bengal Act VII of 1876 makes an order of the Civil Court final and not subject to appeal or order for review. It does not prevent our revising the order of the lower Court either under section 622 of the Civil Procedure Code, or under the Charter Act. This was also the view taken by a Division Bench of this Court in *Umatul Mehdi v. Kulsum*(1).

The second question is, had the Munsif jurisdiction to try the case, although the value of the property was over Rs. 2,000? Section 59 of the Act enables the principal Civil Court of the district, which is the Court of the District Judge, to transfer a case referred under section 55 of the Act to a competent Civil Court in the district. The competency of a Court consists in territorial as well as pecuniary jurisdiction. In this case there was territorial jurisdiction, but there was no pecuniary jurisdiction. The pecuniary jurisdiction of the Court must be regulated by the Bengal, North-Western Provinces and Assam Civil Courts Act, and under section 19 of that Act the extent of the jurisdiction of the Munsif cannot go beyond Rs. 2,000. The Court of the District Judge or the Subordinate Judge was the competent Court in this case, so far as pecuniary jurisdiction was concerned. The Munsif in our opinion ought not to have tried the case and the District Judge was wrong in transferring the case to him.

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On the third ground argued before us, we think that the rule must be discharged. That ground is that the Civil Court, which entertained the reference under section 55 of the Act, has ceased to have any jurisdiction in the matter, and we cannot, therefore, exercise our revisional jurisdiction. As soon as the certificate was sent to the Collector and the Collector registered the names of the persons, who were successful in the Civil Court, the function of the Civil Court ceased. We could not direct the Collector to alter the entry in the register. So far as the function of the Civil Court was concerned, it terminated with the registration of the names by the Collector. We ought not, therefore, to interfere in the matter.

There is another reason also why we ought not to interfere in this case. The petitioner has his remedy in the Civil Court. If the Munsif has acted without jurisdiction the order may be set aside or the entry about registration may be altered by an adjudication of title by the Civil Court.

The rule is accordingly discharged with costs.

S. C. B.