

CIVIL REFERENCE.

Before Sir Francis W. Maclean, K.C.I.E., Chief Justice, and Mr. Justice Coxe.

VENKATA SA BAROD

v.

MAKSUDAN DAS.*

1908
Feb. 14.

Practice—Civil Procedure Code (Act XIV of 1882), ss. 20, 24—Two suits in two Courts under different High Courts—High Court—Jurisdiction—Stay of proceedings.

Where two suits between the same parties are pending in two Courts under two different High Courts.

Held, that the High Court under the conjoint operation of ss. 20 and 24 of the Code of Civil Procedure can direct proceedings to be stayed in one Court pending trial in the other Court.

CIVIL Reference by the District Judge of Murshidabad. On the 9th April 1907, Maksudan Das and another, the defendants in the suit, in respect of which this reference was made, brought a suit against Venkata Sa Barod, the plaintiff in the present suit, in the Court of the Subordinate Judge at Benares for accounts.

On the 3rd June of the same year, Venkata Sa Barod brought a suit against Maksudan Das and another in the Court of the 1st Munsif at Jangipur (in the district of Murshidabad under the jurisdiction of the Calcutta High Court) for a portion of the claim included in the suit pending before the Subordinate Judge at Benares.

Upon this, the defendants in the present suit applied in the Court of the 1st Munsif of Jangipur, with notice to the other side, for a reference to this High Court for the disposal of their prayer for stay of proceedings in the Jangipur Court, on the ground that they did not reside or personally work for gain or carry on any business within the jurisdiction of the Court at Jangipur.

* Civil Reference, No. 9 of 1907, by C. W. E. Pittar, District Judge of Murshidabad, dated 14th January, 1908.

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Babu Tarak Chandra Chakravarti for the plaintiff took a preliminary objection that the High Court had no jurisdiction to decide this matter, as the application for reference was not by one of the parties to this Court, as contemplated by s. 24 of the Civil Procedure Code.

Babu Makhmalal for the defendant relied on s. 20 and s. 12 of the Civil Procedure Code. He also cited *Meckjee Khetsee v. Khasrajee Devachund*(1).

[MACLEAN, C. J. S. 24 does not deal with stay of proceedings.]

Babu Tarak Chandra Chakravarti for the plaintiff. S. 24 does not contemplate stay, but transfer. The Reference is also for transfer. An objection under s. 12 cannot be considered by the Court summarily, as in this Reference. In the case of s. 12, the Court would of its own accord stop one suit.

[COXE J. Do ss. 20 to 24 apply to such cases, viz., where there are two suits?]

MACLEAN C. J. AND COXE J. We have considered the matter referred to us, and we think that under the conjoint operation of sections 20 and 24 of the Code of Civil Procedure, we ought to determine, as we do, that the suit in the Court of Benares should proceed. It follows from this that in the meantime the proceedings in the Munsif's Court at Jangipur will be stayed.

Proceedings stayed.

S. M.

(1) (1879) 4 C. L. R. 282.