

In the High Court of Judicature at Bombay.

O. O. C. J.

Suit No 922 of 1907.

Ahmed Ibrahim Plaintiff

vs.

Shapurji Byramji Katrak Defendant.

20th January 1908.

Coram: Russell J.

Judgment. - In this case it appears that by an agreement of the 28th January 1907 the Defendant let to the Plaintiff a bungalow

(2.)
bungalow at Andheri at a rent
of Rs. 1000 a year. Rs. 250 was to
be paid on the execution of the agree-
ment, and that has been paid,
as also the second instalment
due on the 25th April 1907. The
third instalment due on the
25th July not being paid, the
present Defendant filed a
suit in the Small Cause Court
and got a decree: and another
suit for the next instalment
due on the 25th October was
filed

(4.) ^{lytle 1/2}
no rent is liable from him in
that respect. If the present
Plaintiff's allegations are cor-
rect, very probably he has got
a good cause of action
against the Defendant.

But it appears to me that
the only question now is:
What is the fair and pro-
per order to make?

It seems to me after
having heard the arguments
on.

on both the sides that the proper order will be for me to say that I appoint Mr. R. D. Seltna Receiver of Ahmed Ibrahim the Plaintiff's furniture in the bungalow, and I direct that he do sell it forthwith.

The furniture to be sold by public auction or by a private contract as to the Receiver may seem most desirable. Out of the net proceeds of the furniture, a sum of Rs. 500 should be deposited by

(6.)
by the Receiver in this Court till
further orders. But in the event
of the furniture not realising
as much as Rs. 500, I really
think I must order that
the Plaintiff do deposit in
this Court the difference be-
tween the net proceeds of the
furniture and Rs. 500, and
I think under the ^{such} circumstances
he ought to deposit ^{the} Rs. 100 ^{a further amount of} [as
further security for the costs
incurred by the Defendant

within one mile from the boundary (7.)
in the Small Cause Court. I have
given consideration to ^{all that} what
Mr. Raikes has said, but it
seems to me that if this is
~~the position should not appear as much~~
~~not done it will cast very~~
~~great suspicion on the~~
~~present Plaintiff's case.~~

Under the circumstances
I direct that the two suits
shall be transferred from
the Small Cause Court to
this Court. As I understand
that my judgment in 27 Bom.
has

(8.)

has been followed by Mr. Justice Tylor, I prefer to adhere

to it. ^{and not to follow the 2 cases}
^{see note from 34 Cal. 264 1861.}

On the Plaintiff's depositing

Rs. 100 within a week of the

conclusion of the sale, the

suits transferred to this

Court. In default of the

^{where} orders ^{in the suits}

being complied with,

the suits to proceed in the

ordinary course in the

Small Cause Court.

of

A List of the Plaintiff's
 furniture now in the bun-
 galow to be made out
~~in the presence~~ on Sunday
 next at 12 o'clock in the pre-
 sence of the attorneys of the
 respective parties before the
 sale.

Costs of this ^{matter} to be costs
 in the cause.

A. D. Souza,
 Shorthand Writer, High
 Court - 09.

High Court, Bombay

O. O. C. J.

Suit No. 922 of 1907.

Ahmed Ibrahim... Plff.

vs.

Shaji Byramji } ... Def.
Katrik. }

Oral judgment delivered by Russell on the 20th January

1908.

Seen by Mr. [unclear] on 23-1-08.