

*Referred Case.*1867.  
Dec. 20.SHA'PURJI JEHA'NGIR.....*Plaintiff.*RICHARD MORGAN .....*Defendant.*

*Cantonment Magistrate—Small Cause Court—Concurrent Jurisdiction—European British Subject—Act III. of 1859, Sec. 1—Act XI. of 1865, Sec. 8.*

A European British subject, not belonging to or connected with the army, who resides within a Cantonment, is amenable to the jurisdiction of a Cantonment Joint Magistrate, under Sec. 1 of Act III. of 1859.

Where a pleader resides within the limits of a cantonment and practises as a pleader within the jurisdiction of a Small Cause Court, both the Cantonment Magistrate and the Small Cause Court Judge have concurrent jurisdiction over him to the amounts respectively cognisable by them.

CASE referred for the opinion of the High Court by Ráv Bahádur Janárdhan Vásudevji, Judge of the Small Cause Court at Puná, under Sec. 22 of Act XI. of 1865.

“Shápúrji Jehángir sued one Richard Morgan for the payment of Rs. 34-11-0, for goods supplied.

“The defendant pleaded ‘no jurisdiction,’ he being a resident of the Puná Cantonment, and the claim being one cognisable by the Cantonment Joint Magistrate. He relied upon Sec. 1 of Act III. of 1859 and Sec. 12 of Act XI. of 1865.

“The plaintiff admits that the defendant is a resident of the Cantonment, but contends that Act III. of 1859 does not invest the Cantonment Joint Magistrate with any jurisdiction over Europeans, but over natives only, and that the defendant being a European, his residence within the limits of the Cantonment does not render him amenable to the authority of the Cantonment Joint Magistrate. The plaintiff further urges that the defendant practises as a pleader in the courts in the City of Puná, which is beyond the local limits of the Cantonment Magistrate’s jurisdiction, and within those of this court, and that this court has jurisdiction, under Sec. 8 of Act XI. of 1865, over persons “*personally working for gain or carrying on business within the local limits of its jurisdiction.*”

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“The defendant replies that, the office of pleader being a profession, his practising as pleader in the courts of the City of Puná does not come within the meaning of the phrases ‘personally working for gain’ and ‘carrying on business.’

“The contention between the parties resolves itself into the following three questions:—

“I. Whether a European not belonging to or connected with the army, but merely residing within the limits of the cantonments, is or is not, by reason of such residence, amenable to the jurisdiction of the Cantonment Joint Magistrate, provided the amount of the claim be under Rs. 200.

“II. Whether the fact of the defendant practising as a pleader in the courts in the City of Puná brings the suit within the jurisdiction of this court.

“III. If both the above questions be decided in the affirmative, can this court entertain the suit, when it is one coming within the cognisance of the Cantonment Joint Magistrate.”

The Judge of the Small Cause Court was of opinion that the first two questions should be answered in the affirmative, and the third question in the negative, but being in doubt submitted them for the opinion of the Court.

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The Court is of opinion that the defendant was amenable to the jurisdiction of the Cantonment Joint Magistrate.

That he was liable to be sued in the Small Cause Court, his practising his profession as a pleader being within the words “personally working for gain.”

That the Cantonment Joint Magistrate and the Small Cause Court have concurrent jurisdiction in this case; and that the jurisdiction of the Small Cause Court does not take away the jurisdiction of the Cantonment Joint Magistrate within the meaning of Sec. 12 of Act XI. of 1865.