

Special Appeal No. 568 of 1869.

1870.
July 21.

MOHANA', widow of GUMA'NI' *Appellant.*
SHEKH SA'DODIN *et al.* *Respondents.*

Lease—Stipulation against Subletting—Injunction—Equity.

Where a lease contained a stipulation against subletting without the lessor's consent, and the lessee violated this stipulation: it was held that the stipulation was a reasonable one, and that the lessor might either bring an action for damages for its breach, or a suit for an injunction to restrain such subletting by the lessee.

THIS was a special appeal from the decision of Baron De H. Larpent, Joint Judge at Puñá, in Appeals Nos. 292 and 304 of 1867, amending the decree of the Principal Şadr Amín of Puñá.

The plaintiffs sued the special appellant Mohaná and one Dinshá to set aside a lease in perpetuity of a piece of land alleged to have been given by the former to the latter, averring that the plaintiffs had let that piece of land to Mohaná on the condition that she should not let in any person without their consent.

The defendants pleaded, *inter alia*, that it was competent to Mohaná to dispose of what she had herself derived from the plaintiffs.

The Principal Şadr Amín gave a decree in favour of the plaintiffs, and directed the lease by Mohaná to Dinshá to be set aside, finding that, under the terms of the lease, the former had no power to alienate it to the latter without the plaintiffs' consent.

The Joint Judge amended the decree of the court of first instance, and cancelled only so much of the lease to Dinshá as empowered him to build upon the land.

The special appeal was heard before MELVILL and KEMBALL, JJ.

Pándurang Balibhadra appeared for the special appellant.

Shántáram Náráyan for the special respondents.

Per CURIAM:—We think that the agreement No. 3 bound the appellant not to let in a third person without the

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respondents' consent. This was a reasonable stipulation, and one which is very commonly-inserted in leases. When this covenant was broken a cause of action arose, and a Court of Equity will interfere to restrain a breach of such an agreement. We consider that it was competent to the courts below to make an order restraining the lease altogether; but as neither Dinshá nor the plaintiffs have appealed against the Judge's decree, which simply amounts to an injunction against building on the land, we are not called upon to go further, or to declare the lease void.

Decree affirmed.