

1873.  
June 9.

[APPELLATE CIVIL JURISDICTION.]

*Regular Appeal No. 74 of 1872.*

THE COLLECTOR OF POONA ..... *Appellant.*

BHAVA'NRA'V BA'LKRISHNA ..... *Respondent.*

*Action against Collector—Entry in the Revenue Books—Title.*

The mere entry of the name of one parcener in immoveable property in the Collector's books, as the occupant or owner is not sufficient ground for an action by a coparcener against the Collector, inasmuch as the Collector's books are kept for purposes of revenue and not for purposes of title. But if the Collector improperly enjoin the plaintiff from taking or other parties from paying to the plaintiff his share of the rents or profits, an action may be maintained against the Collector.

THIS was an appeal from the decision of S. Tagore, Extra Assistant Judge at Tanna, in Original Suit No. 14 of 1871.

Bhavánráv instituted this suit against the Collector of Poona and Jánkibái the widow of Rámráv Krishna, and claimed a half share in the proceeds of a certain *Inám* village, whereof Jánkibái was entered in the Collector's books as *Inámdár*. He also complained that the Collector, by an order, dated the 4th April 1867, interfered with his management of the village.

The plaint prayed for a decree for setting aside the Collector's order and requiring the Collector to pay the plaintiff, separately, his share in the profits of the *Inám* village.

The Assistant Judge held the plaintiff entitled to receive his share separately and set aside the order of the Collector. He awarded the plaintiff costs against the Collector and Jánkibái. Against this decree the Collector alone appealed to the High Court.

The appeal was argued before WESTOPP, C.J., and NANABHAI HARIDASS, J., on 9th June 1873.

*Dhirajlál Mathurádas*, Government Pleader, for the appellant.

*Janárdan Sakháram Gádgil* for the respondent.

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WESTROPP, C.J. :—If this suit complained only of the entry of the name of the second defendant, Jánkibái, in the books of the Collector, as *Inámdár*, we think that it would not lie against the first defendant, the Collector, the Collector's book being, as stated in *Fátmá v. Daryá Sáheb* (a), kept for purposes of revenue and not for purposes of title, and therefore the fact that Jánkibái's name was so entered could not have affected the title of the plaintiff. But the Collector, by his Assistant's order, dated 28th March 1871, which the Collector ratified, issued a species of injunction against the plaintiff's drawing his share of the *Inám* directly from the Kulkarni and Pátíl, and against any such payment by the latter to the plaintiff; and thereby interfered between the plaintiff and second defendant in favour of the latter, and exposed himself to the present action. If the Collector had simply referred the parties to a civil suit and said no more in his order, the plaintiff could not have maintained his suit against the Collector, and the order, whereby the Collector was charged with costs, would have been illegal, but the Collector, as already pointed out, went beyond such a reference. We must assume that the decree, so far as it affects the second defendant, is right, she not having appealed against it.

THE  
COLLECTOR  
OF POONA  
v.  
BHAVA'NRA'  
BA'KRISHNA:

NANABHAI HARIDASS, J., concurred.

*Decree affirmed with costs.\**

(a) *Supra* p. 187.

\* See the next case.