

these reasons I am of opinion that the proceeds of the sale should be rateably divided between the two applicants under the new Code, sec. 295, and contingently upon the orders of the High Court have ordered accordingly.

There was no appearance for either party.

Per Curiam.—The Court is of opinion that by his attachment, under the old Code, Narandas acquired the right to have his decree first satisfied in full, and that he was not deprived of this right by the change in the law. See section 6, Act I of 1868.

Order accordingly

1879
 NARANDAS
 v.
 BAI
 MANCHHA.

APPELLATE CIVIL.

(53)

Before Mr. Justice West and Mr. Justice Pinhey.

BALKRISHNA APPLICANT, v. LAKSHMAN, OPPONENT.*

Civil Procedure Code (Act X of 1877), Sec. 525—Arbitration—Award—Filing—Court of Subordinate Judge—Court of Small Causes.

A Subordinate Judge, although invested with the jurisdiction of a Judge of a Court of Small Causes, does not on that account become a Judge of a Court of Small causes, nor his Court such a Court within the meaning of the Civil Procedure Code. He, therefore, has power, within the limits of his ordinary pecuniary jurisdiction, to receive and file awards of arbitrators under section 525 of the Civil Procedure Code (Act X of 1877).

THIS was application, in the exercise of the High Court's extraordinary jurisdiction, for the reversal of an order of the Subordinate Judge of Mahad refusing to receive and file an award of arbitrators.

Madhavrav Krishna for the applicant.—The Subordinate Judge was in error in refusing to receive our award and file it. His being invested with Small Cause Court powers does not disentitle him from exercising his general powers; nor does it make him a Small Cause Court Judge.

WEST, J.—It does not appear that the application addressed to the Subordinate Judge at Mahad, which has been placed before us with the petition of the applicant, was actually presented to the Subordinate Judge. What the applicant says in his petition is that

* Extraordinary Application, No. 139 of 1878.

1879
 BALKRISHNA
 V.
 LAKSHMAN.

the Subordinate Judge rejected (in the sense of refused to accede to) his application for the registration of the award, not, as his pleader now says, that the application was returned because the Subordinate Judge refused to entertain it.

The applicant having an award duly made would be entitled to have it registered according to the provision of section 525 of the Code of Civil Procedure in the Subordinate Judge's Court. That Court, it may be desirable to point out, is not a Court of Small Causes constituted under Act XI of 1865, to which certain restrictions of the operation of the new Code of Civil Procedure apply. It is a Court constituted under Act XIV of 1869; but the Subordinate Judge is invested, as it would seem, with the jurisdiction of a Judge of a Court of Small Causes in dealing with cases up to the amount of Rs. 50. That jurisdiction is a final jurisdiction, and, therefore, no appeal lies in such case; but the Subordinate Judge exercising it, does not on that account become a Judge of a Court of Small Causes, or his Court such a Court within the meaning of the Code of Civil Procedure. The Code by section 5 defines such a Court in a way which excludes the Courts constituted under Act XIV of 1869 and all that are not constituted under Act XI of 1865. Awards, therefore, of any amount within the ordinary pecuniary jurisdiction of a Subordinate Court may properly be taken to such a Court for registration. It is not a Small Cause Court, and even where a Small Cause Court exists, and the exercise of its jurisdiction excludes for some purposes the jurisdiction of a Subordinate Judge's Court, the latter still has power, if only because the jurisdiction of the Small Cause Court is, as to such a matter, excluded, to receive and file an award of arbitrators just as if there were no Small Cause Court in existence.

We reject the application as insufficiently supported. If the applicant is entitled to the registration of the award, he can still claim it at the hands of the Subordinate Judge within whose jurisdiction the matter lies.

Application rejected.
