

The Sub-Registrar not being for general purposes a Court, he does not become one by making an inquiry for the purpose of ascertaining whether he is justified in registering a document presented for registration, much less is he a Judge, when not even making an inquiry. Nor do the provisions in the Code of Criminal Procedure as to cases of contempt before a Registrar constitute that officer a judge or Court for general purposes.

We are of opinion, therefore, that the sanction of the Sub-Registrar is in no way necessary for the prosecution of the accused Tulja. The commitment was legal; and we direct that the Sessions Court do receive the commitment and proceed with the trial.

Trial ordered.

12 B. 44.

[44] APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Nanabhai Haridas.

RANGO JAIRAM (*Plaintiff*) v. BALKRISHNA VITHAL (*Defendant*). *
[21st July, 1887.]

Jurisdiction—Decree—Execution—Attachment of assets of a judgment debtor outside the jurisdiction of the attaching Court—Practice—Procedure.

The plaintiff having obtained a decree against the defendant in the Court at Bhusaval, sought to execute it by attaching a moiety of the defendant's pay. The defendant was a sorter in the Railway Mail Service, and travelled between Bhusavar and Nagpur, at which latter place he resided and received his pay. By an order of attachment issued, at the plaintiff's instance, by the Bhusaval Court to the defendant's disbursing officer at Nagpur, a moiety of the defendant's pay having been withheld by that officer, the defendant applied to the Bhusaval Court to cancel the order, contending that it was illegal, as neither he nor his disbursing officer resided at Bhusaval. On reference to the High Court,

Held, that the order of attachment was *ultra vires*, as neither the defendant nor his disbursing officer resided within the jurisdiction of the Bhusaval Court. The proper procedure was to send the decree of the Bhusaval Court for execution to Nagpur, where the disbursing officer resided, and the defendant's pay was available for satisfaction of the decree.

[R., 28 B. 198; 39 C. 104 = 14 C.L.J. 228 = 16 C. W.N. 402 = 2 Ind. Cas. 417; 11 C.P. L.R. 148.]

THIS was a reference by Rav Saheb Dwarkanath Narayan Ranadive, Subordinate Judge of Bhusaval, under s. 617 of the Civil Procedure Code (Act XIV) of 1882. The reference was as follows:—

“In this case the plaintiff applied to the Second Class Subordinate Judge at Bhusaval, in execution of his decree against the defendant, who is described as an inhabitant of Bhusaval, and consequently within the jurisdiction of his Court, and who is a sorter in the Railway Mail Service, for an order to the defendant's disbursing officer to attach and send to the Court a moiety of the defendant's pay. The order was sent, and had been obeyed.

“The defendant, however, appeared on the 27th March, 1887, and applied for the withdrawal of the order attaching his pay, on the ground

* Civil Reference. No 20 of 1887.

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that it was illegal, inasmuch as the Court had no authority to issue the order, because he dwelt at Nagpur, and not in Bhusaval, as stated by the plaintiff in his application, and that as neither he nor the disbursing office, from which he receives his pay, is [45] within the local jurisdiction of the Court, the Court could not attach his pay."

The question referred by the Subordinate Judge for the High Court's decision was :—

Whether, under the circumstances, the defendant could not be considered as having a temporary lodging at Bhusaval?

The Subordinate Judge's opinion on the point was in the affirmative.

Vishnu Krishna Bhatavadekar, for the plaintiff.

Vasudev Gopal Bhandarkar, for the defendant, relied on the case of *Gopal v. T. H. Lavet* (1).

JUDGMENT.

SARGENT, C.J.—As neither the disbursing officer nor the judgment-debtor himself lives within the local jurisdiction of the Court, the salary of the judgment-debtor can in no sense be said to be within the jurisdiction, and cannot, therefore, be attached. A copy of the decree may be sent to Nagpur for execution, where the disbursing officer resides and the judgment-debtor has pay available for the satisfaction of the decree.

(1) 12 B. 45-N = Unrep. P. J. B. H. C. (1881-1883) 641.

Note.—The following is the case of *Gopal v. T. H. Lavet* (Printed Judgments for 1883, p. 169), referred to in the argument. The case was heard by West and Nanabhai Haridas, JJ.

The plaintiff Gopal, having obtained in the Court of the Subordinate Judge of Bhusaval a decree against the defendant Lavet, applied in execution of that decree to attach a moiety of the defendant's pay. The defendant was employed on the Malwa and Rajputana Railway. An order having been sent to the Agent of the Railway, it was returned unexecuted, on the ground that the Bhusaval Court had no jurisdiction. The Subordinate Judge of Bhusaval referred the following questions to the High Court :—

Whether a Court passing a decree could by a prohibitory order attach the pay of a judgment-debtor when the officer disbursing the pay had his office beyond the local jurisdiction of that Court, and also when the debtor was for the time being employed in a place beyond its jurisdiction?

2. Whether the order for attaching the pay could only be served by sending it direct to the pay disbursing officer, or whether it could be sent for service to the Court having jurisdiction in the place in which his office was located?

WEST, J.—There is not any provision in the Code of Civil Procedure enabling the Subordinate Judge to exercise authority and issue orders and execution to a disbursing officer residing without his local jurisdiction, in order to obtain [46] satisfaction of a decree against a judgment-debtor, who also is beyond his local jurisdiction. A copy of the decree may be sent to a Court having local jurisdiction, and that Court may execute it in one of the ways allowed by the Code of Civil Procedure if either the judgment-debtor resides within its local jurisdiction or if he has assets, including pay, available there for the satisfaction of the decree.