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Mahale in his suit against Babaji did not, however, try to follow the land: he brought a simple money suit, and he obtained a simple money decree. In execution of that decree there was an attachment and sale of Babaji's property, *viz.*, his interest in the land. Anant was not a party on the record, either in the suit or in the execution proceedings. Therefore, even if his liability could be established, he could not in the execution proceedings [387] be called upon to pay the full amount of the money decree obtained by Mahale against Babaji, and his failure to do so would not, in any way, affect the sub-leases under which he is in possession.

The decree, therefore, must be confirmed with costs, but its language must be, for the sake of clearness, amended to the following. The attachment and sale of Babaji's interest in the land to stand—the plaintiff's rights as a sub-lessee under the lease of the portion of the land let to him by Babaji on the 3rd November, 1882, to be reserved—the order passed in execution proceedings for sale so far as it includes plaintiff's interest, to be set aside.

Decree confirmed.

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14 B. 387.

APPELLATE CIVIL.

Before Mr. Justice Scott and Mr. Justice Candy.

GANESH KRISHNAJI (*Original Plaintiff*), *Applicant v.* KRISHNAJI *alias* BALAJI GOPAL (*Original Defendant*), *Opponent.** [3rd December, 1889.]

Dekkhan Agriculturists' Relief Act (XVII of 1879), s. 3, cl. (w)—Its application to non-agricultural classes—Special Judge—His revisional jurisdiction.

The Dekkhan Agriculturists' Relief Act (XVII of 1879) is not limited in its application to agriculturists only, but applies to all classes under certain conditions.

The plaintiff sued to recover Rs. 50 as money spent by him on account of the defendant. The suit was filed in the Court of the First Class Subordinate Judge at Satara, where both parties resided. The Subordinate Judge passed a decree in plaintiff's favour. The Special Judge, in revision, reversed this decree and dismissed the suit. The plaintiff thereupon applied to the High Court, under s. 622 of the Code of Civil Procedure (Act XIV of 1882), urging that as neither party to the suit was an agriculturist, the Special Judge had no revisional jurisdiction in the matter.

Held, that the Special Judge had such jurisdiction, the suit being one falling within cl. (*w*) of s. 3 of the Dekkhan Agriculturists' Relief Act (XVII of 1879).

THIS was an application under the extraordinary jurisdiction of the High Court.

The plaintiff sued to recover Rs. 50 from the defendant under the following circumstances. The plaintiff alleged that there [388] was a temple of Shri Murlidhar at Nimb founded by the common ancestor of both parties; that under an agreement dated 24th November, 1859, it was settled that the worship of the idol should be performed by the plaintiff's and defendant's branch of the family in alternate years; that for the proper performance of the worship of the idol Rs. 25 should be paid each year out of the income of some *inam* land belonging to the family; that this arrangement was carried out till 1881; that the defendant failed to make any provision for the worship of the idol in the years 1882 and

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1884 when his turn came; that in those years plaintiff was obliged to spend Rs. 50 on the defendant's account. The plaintiff, therefore, claimed to recover back the money so spent.

The defendant denied that there was any such arrangement as was alleged by the plaintiff, and pleaded that the plaintiff had no right to incur any expenditure on his (the defendant's) account.

The suit was filed in the Court of the First Class Subordinate Judge at Satara, where both parties resided. The case was tried as one falling under s. 3, cl. (*w*), of the Dekkhan Agriculturists' Relief Act (XVII of 1879), though neither party was an agriculturist. The Subordinate Judge passed a decree in plaintiff's favour.

The Special Judge, in revision, reversed the decision of the Subordinate Judge and rejected the plaintiff's claim, holding that the agreement set up by him was not proved.

Against this decision the plaintiff applied to the High Court under s. 622 of the Code of Civil Procedure (Act XIV of 1882) urging (*inter alia*) that as neither party to the suit was an agriculturist, the Special Judge had no jurisdiction to revise the proceedings of the Subordinate Judge.

A rule *nisi* was issued to the defendant, calling upon him to show cause why the Special Judge's order should not be set aside.

Vasudev R. Joglekar showed cause.—Act XVII of 1879 is not limited in its operation to agriculturists. It extends to all classes, provided the requisite conditions are satisfied—*Tulsidas Dhunji* v. *Virbussapa* (1). The present suit satisfies all the requirements of the Act. It is a suit of the class described in **[389]** cl. (*w*) of s. 3 of the Act. The Special Judge was therefore competent to exercise his revisional powers under s. 53.

Shivram V. Bhandarkar, contra.—The Dekkhan Agriculturists' Relief Act is specially intended for the benefit of the agricultural classes. The preamble clearly shows that the Act is meant to relieve agriculturists from indebtedness. To extend the provisions of this Act to people other than agriculturists would be to defeat the object of the enactment. The Act does not, therefore, apply to the present case, and the Special Judge had no jurisdiction to revise the proceedings of the Subordinate Judge.

JUDGMENT.

SCOTT, J.—This is an application under the Court's extraordinary jurisdiction powers, and we are asked to revise a decision of the Special Judge under the Agriculturists' Relief Act on three grounds. The first two grounds were not much pressed, and may be disposed of very shortly. As the Special Judge has the power, under s. 53 of the Act, to call *suo motu* for any case, the fact that only one defendant applied to him in revision would not affect his decision. As regards the second point, the statement of the defendant admitting certain facts did not act as an estoppel; it was only a strong piece of evidence. As a third point which was argued at length, Mr. Shivram objected to the jurisdiction of the Special Court, on the ground that neither party was an agriculturist. The question must, of course, be solved by reference to the Act itself. The preamble was relied upon to show that agriculturists alone were the object of legislation.

(1) 4 B. 624.

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But whilst the preamble of an Act may be consulted whenever the enacting part is open to doubt, it cannot either restrict or extend the enacting part when the latter is free from doubt. (See Maxwell on the Interpretation of Statutes, pp. 35-39.) In our opinion, the language of the Act is perfectly plain. Although the main object of the Act was no doubt to relieve the agricultural classes, the enactment clearly extends the relief given to all classes under certain conditions. As Mr. Justice West says in *Tulsidas Dhunjee* v. *Virbussappa*(1), "the special provisions of s.3, cl. (*b*), with cls. (*w*) and (*x*), as distinguished from cls. (*y*) and (*z*), plainly extend to all classes, not only to agriculturists, provided the given conditions be satisfied." Those conditions are that the [390] suits in question must be in amount of claim under Rs. 500 or Rs. 100 according to the class of Court in which they are instituted, and must have arisen in the districts to which the Act applies. These conditions are fulfilled by the suit before us, which was brought before the First Class Subordinate Judge of Satara for the sum of Rs. 50 as money spent by plaintiff, who lives near Satara, for defendant's behalf who lives at the same place. Thus it clearly comes within (*w*) of the (*b*) division of s. 3, and is "a suit for the recovery of money due to the plaintiff on account of money paid for the defendant." As the language of the section is perfectly free from ambiguity, we are bound by its plain meaning, and the argument that its meaning is a departure from the spirit of the Act must be addressed to the Legislature and not to this Court, whose sole duty is to expound the law as it stands according to the plain sense of its words. We must, therefore, hold in favour of the jurisdiction impugned, and we see no reason to interfere with the discretion of the Special Judge as exercised under s. 53 in this particular case. Rule discharged with costs.

Rule discharged.

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14 B. 390.

APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Telang.

SHRIPATRAV AND ANOTHER (*Original Defendants*), *Appellants v.* GOVIND NARAYAN (*Respondent.*)* [12th December, 1889.]

Civil Procedure Code (Act XIV of 1882) *s. 257-A—Adjustment of a decree barred by limitation—Sanction not necessary—Contract Act, IX of* 1872, *s.* 25, *cl.* 3.

The plaintiff's father had in his lifetime obtained a decree against the first defendant and two other persons. This decree having been partly satisfied, the first defendant and his son, who was no party to the decree, executed a bond for the amount still remaining due. At the date of this bond the decree was barred by limitation. No sanction for the bond was obtained under s. 257 A of the Civil Procedure Code. The adjustment was secured under s. 258. The plaintiff now sued upon the bond. On reference to the High Court,

Held, that the bond did not require the sanction of the Court under s. 257 A of the Civil Procedure Code (Act XIV of 1882). That section relates to judgment-debts which are still enforceable.

[391] *Held*, also, that judgment-debt is a debt within the contemplation of s. 25, cl. (3) of the Contract Act, IX of 1872.

[R., 26 A. 36=23 A.W.N 179.]

* Civil Reference No. 15 of 1889.

(1) 4 B. 624 (628).