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the sale has resulted in any substantial damage. More than twelve years have elapsed since the date of the confirmation of the sale. Since then the purchaser became adverse owner of the property, and his long possession must be held to have operated as a bar to the legal remedy of the present plaintiff. Moreover, a third person, who had no notice of the plaintiff's right and the defect in the sale proceedings, purchased the property for valuable consideration so far back as 1883. In the Madras cases, this question of limitation did not arise, and was not raised. Under all these special circumstances, I think that the present plaintiff cannot maintain her suit for redemption, and that, notwithstanding the legal defect in the sale proceedings, the defendant's title cannot now be questioned after more than twelve years.

I would, therefore, reverse the order of remand of the lower Court of appeal, and restore the decree of the original Court. Respondent should pay the costs of both appeals.

Order reversed.

APPELLATE CIVIL.

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

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March 27.

GURUBASAYA (ORIGINAL DEFENDANT), APPLICANT, v. CHANMALA'PPA'
(ORIGINAL PLAINTIFF), OPPONENT.*

The Dekkhan Agriculturists' Relief Act (Act XVII of 1879), Sec. 53†—Revisionary power of the Special Judge—Cases in which failure of justice appears to have taken place—Jurisdiction—Civil Procedure Code (Act XIV of 1882), Sec. 622.

Section 622 of the Civil Procedure Code (Act XIV of 1882) gives to the High Court jurisdiction to interfere only where the lower Court acts without jurisdiction or has exercised its jurisdiction "illegally or with material irregularity."

* Application No. 140 of 1893 under the extraordinary jurisdiction.

† Section 53 of the Dekkhan Agriculturists' Relief Act (Act XVII of 1879) :—

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under Chapter II, Chapter IV, or Chapter VI of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit ;

Under section 53 of the Dekkhan Agriculturists' Relief Act (Act XVII of 1879) the Special Judge has a revisionary power in all cases where a failure of justice appears to have taken place. It is for him to decide whether the finding on a question of fact by a Subordinate Judge is of that nature, and in doing so he is entirely within his jurisdiction.

Shidhu v. Bali(1) dissented from.

THIS was an application under the extraordinary jurisdiction (section 622 of the Civil Procedure Code, Act XIV of 1882) against the decision of Ráo Bahádur Mahádeo Govind Ránade, Special Judge under the Dekkhan Agriculturists' Relief Act (Act XVII of 1879).

Plaintiff Chanmaláppá bin Malkáppá sued to recover Rs. 333-14-9 due on an account. The defendant disputed certain items in the account and among them one for Rs. 130; he further claimed a set-off on account of commission due to himself.

The First Class Subordinate Judge of Sholápur found that the defendant was not entitled to the commission, and that the plaintiff's claim to the item of Rs. 130 was not proved. He, however, allowed the plaintiff's claim to the extent of Rs. 203-14-9.

Against this decision both the plaintiff and the defendant applied for revision to the Special Judge, who found that the plaintiff's claim to the item of Rs. 130 was proved; that the defendant was entitled to the commission, and that the inquiry before the Subordinate Judge was defective. He, therefore, reversed the decree, and remanded the case for a fresh decision.

On remand the First Class Subordinate Judge gave to the plaintiff a decree for Rs. 40-14-9.

Both the parties again applied for revision to the Special Judge, who on retaking the account amended the decree and awarded to the plaintiff Rs. 275-14-9 and costs in proportion.

and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and, if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge, and the District Judge may pass such decree or order on the case as he thinks fit:

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

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The defendant thereupon applied to the High Court under its extraordinary jurisdiction, and obtained a rule *nisi* calling upon the plaintiff to show cause why the order of the Special Judge should not be set aside.

Ganesh Krishna Deshamukh appeared for the applicant (original defendant) in support of the rule, and relied upon *Shidhu v. Bálí*⁽¹⁾.

Nagindás T. Marphatia appeared for the opponent (original plaintiff) to show cause, and relied upon *Usmánbhai v. Imratbhai*⁽²⁾ and *Ráyachand v. Sultán Rahimbháí*⁽³⁾.

SARGENT, C. J.:—We think the decision in *Shidhu v. Bálí*⁽¹⁾ proceeds upon a mistaken application of section 622, Civil Procedure Code, which only gives this Court jurisdiction to interfere where the lower Court acts without jurisdiction or has exercised its jurisdiction “illegally or with material irregularity.”

The Special Judge by section 53 of Act XVII of 1879 has a revisionary power in all cases where a failure of justice appears to have taken place. It is for him to decide whether the finding on a question of fact by a Subordinate Judge is of that nature, and in doing so he is entirely within his jurisdiction. The practice of this Court under the criminal procedure referred to in the above cases is determined by our own view of the proper way of exercising our revisionary jurisdiction, but cannot, in the absence of words to that effect, be properly imposed on the Special Judge as matter of law determining his jurisdiction.

This view of the law is no doubt more distinctly expressed than in either of the cases of *Usmánbhai v. Imratbhai*⁽²⁾ or *Ráyachand v. Sultán Rahimbháí*⁽³⁾; but Mr. Justice Telang, who was one of the Judges who decided *Shidhu v. Bálí*⁽¹⁾ when sitting with the Chief Justice in the above cases, was, on reconsideration, of the same opinion as that now expressed. We must, therefore, discharge the rule, with costs.

Rule discharged.

(1) I. L. R., 15 Bom., 180.

(2) P. J., 1893, p. 148.

(3) I. L. R., 18 Bom., 347.