

APPELLATE CIVIL.

Before Mr. Justice Candy and Mr. Justice Whitworth.

SHANKARBHAI AND OTHERS (ORIGINAL PLAINTIFFS), APPLICANTS, *v.*
SOMABHAI AND ANOTHER (ORIGINAL DEFENDANTS), OPPONENTS.*

1900.

December 4.

Jurisdiction—Small Cause Suit—Subordinate Judge invested with Small Cause jurisdiction—Small Cause suit tried by a Subordinate Judge under his ordinary jurisdiction—Appeal.

Where a Subordinate Judge invested with Small Cause jurisdiction tried a small cause suit under his ordinary jurisdiction,

Held, that the character of the suit was not altered by the mode in which the Subordinate Judge had exercised his jurisdiction and that his decree being final, was not appealable to the District Court.

APPLICATION under the extraordinary jurisdiction of the High Court.

Plaintiffs brought a suit to recover Rs. 11-4-0 as their share of an annual allowance received by the defendants from the Government treasury.

The Second Class Subordinate Judge of Umreth, who was also invested with the jurisdiction of a Small Cause Court, tried the suit under his ordinary jurisdiction, and awarded the plaintiff's claim.

The defendants thereupon appealed to the District Court, and the First Class Subordinate Judge, A.P., reversed the decree and dismissed the suit.

Against this decision plaintiffs applied to the High Court, contending that the suit being one falling under the Small Cause jurisdiction of the Subordinate Judge, his decree was final: that there was no appeal from it, and that the First Class Subordinate Judge, A.P., had no jurisdiction to reverse it.

L. A. Shah for applicants (plaintiffs).

G. S. Rao for opponent 1 (defendant 1).

CANDY, J.:—The character of the suit was not altered by the mode in which the Subordinate Judge exercised his jurisdiction.

* Application No. 163 of 1900 under the Extraordinary Jurisdiction.

1900.
SHANKARBHAI
v.
SOMABHAI.

The suit was of such a character that no appeal from the Subordinate Judge's decision lay to the District Court. We must therefore make the rule absolute, and set aside the appellate decree of the District Court. No order as to costs.

Appellate decree set aside.

APPELLATE CIVIL.

Before Mr. Justice Ranade and Mr. Justice Crowe.

1900.
December 7.

MURLIDHAR (ORIGINAL AUCTION-PURCHASER), APPELLANT, v. ANAND-
RAO AND OTHERS (ORIGINAL DEFENDANTS 1 TO 4 AND
ORIGINAL PLAINTIFF), RESPONDENTS.*

Execution—Decree—Sale in execution—Civil Procedure Code (Act XIV of 1882), section 310A and 244 (c)—Order refusing to set aside a sale—Appeal from such order.

An appeal lies from an order passed under section 310A of the Civil Procedure Code (Act XIV of 1882), refusing to set aside a sale, where the dispute relates to the execution, discharge or satisfaction of a decree and thus comes within section 244 (c) of the Code.

SECOND appeal from the decision of R. Knight, District Judge of Sátára, reversing the decision of Ráo Sáheb N. V. Samant, Second Class Subordinate Judge of Rahimatpur.

The question in this appeal was whether an order refusing to set aside a sale under section 310A of the Civil Procedure Code (Act XIV of 1882) was appealable.

On 23rd November, 1893, the plaintiff Nawalram obtained a decree for Rs. 1,247-14-0, together with interest up to the date of recovery, against defendants' father Bhavanrao Anandrao.

On 7th January, 1893, plaintiff applied for execution of the decree and claimed Rs. 1,666-2-0, being the principal amount (Rs. 1,247-14-0) with interest up to date.

A warrant of attachment and sale was issued, but the defendants appeared and paid the amount of the claim and the warrant was returned as satisfied on the 27th August, 1893.

* Second Appeal No. 498 of 1900.