any further into the other portions of the order of the Tribunal and to find whether or not the Tribunal could have recorded evidence to base on it the said portion of the order.

Gosain, J.

For the reasons given above the petition has no merits and is dismissed with costs.

Mehar Singh, J.

MEHAR SINGH, J.—I agree.

B.R.T.

FULL BENCH.

Before S. S. Dulat, Bishan Narain and S. B. Capoor, JJ.

MEHAR SINGH AND ANOTHER,—*Appellant.*

versus

KASTURI RAM AND OTHERS,—*Respondents.*

Letters Patent Appeal No. 14 of 1958.

1961

Jan., 9th.

Code of Civil Procedure (V of 1908)—Sections 37, 38, 39 and 150—Local area of the Court passing the decree transferred to another Court—Application for execution of the decree—Whether can be made to the Court to which area transferred without the order of transfer by the Court which had in fact passed the decree.

Held, that by virtue of section 38 of the Code of Civil Procedure, the Court which originally passed the decree does not cease to be the decreeing Court even when the subject-matter of the decree has been subsequently transferred to the jurisdiction of another Court. The general principle of law, however, is that no Court can execute a decree when its subject matter is situated outside its local jurisdiction and as a general rule territorial jurisdiction is a condition precedent to a Court executing a decree and no Court can execute it in respect of property which lies outside its territorial jurisdiction.

Held, that, the word "jurisdiction" in the expression "ceased to have jurisdiction to execute it" in Section 37 (b) of the Code should be given its literal meaning, that

is, of any kind whatsoever. A Court may cease to have territorial or pecuniary jurisdiction or may cease to have jurisdiction over the subject-matter of the litigation. This section deals with the loss of this jurisdiction after the passing of the decree. In all cases of loss of jurisdiction whether territorial, pecunnary or on the subject-matter after a decree has been passed empowers the decree-holder to file an application direct to the Court that can execute it and he is not limited to seek his relief from the decreeing Court only.

Held, that when one is considering whether or not the decreeing Court has ceased to have jurisdiction to execute its decree, one has to look to the decree according to its tenor and as it stands. If the decree as such can partly be executed by the decreeing Court or if it is possible for it to execute it partly or wholly, then it has not lost its jurisdiction to execute it and section 37 does not come into the picture. If the decree-holder wishes to execute a decree for money by attachment of the properties lying outside the jurisdiction of the decreeing Court then it cannot be said that the decreeing Court has ceased to have jurisdiction to execute the decree although it cannot attach such properties. All that can be said is that the decreeing Court cannot enforce the decree by the mode of execution sought by the decree-holder. In such cases procedure under sections 38 and 39 must be adopted. A Court under section 37 ceases to have jurisdiction to execute a decree only when it is unable to give the relief according to the tenor of the decree and not otherwise. It follows from this view that when the decreeing Court has entirely lost jurisdiction to execute the decree according to its tenor then it remains only a "notional" Court that passed the decree for the purposes of its execution and all that it can do is to transfer a copy of the decree to the Court that has jurisdiction to execute it and then to receive a certificate of satisfaction or otherwise from it. Sections 37 and 38 of the Code, when construed according to the language used therein, empower the decree-holder to file an execution application either to the Court that actually passed the decree or to the Court that can effectively execute it and in the latter case it is not necessary to comply with the provisions of section 39 of the Code.

Case referred by a Division Bench consisting of Hon'ble Mr. Justice Bishan Narain and Hon'ble Mr. Justice Inder

Dev Dua, on 11th May, 1960 to a large Bench for decision of an important point of law involved in the case. The Full Bench consisting of Hon'ble Mr. Justice S. S. Dulat, Hon'ble Mr. Justice Bishan Narain and Hon'ble Mr. Justice S. B. Capoor, finally decided the case on 9th January, 1961.

Appeal under Clause 10 of the Letters Patent against the judgment, dated 26th September, 1957 of Hon'ble Mr. Justice G. D. Khosla, passed in E.S.A, No. 7(P) of 1956 reversing that of Shri Ranjit Singh, Sarkaria, District Judge, Sangrur, dated 3rd February, 1956 (whereby the judgment of Shri Pritam Singh Sekhon, Additional Sub-Judge 2nd Class, Sunam, dated the 30th August, 1955 holding that execution application cannot proceed in his Court was affirmed), and directing that execution application be entertained by the Sunam Court.

D. C. GUPTA AND J. V. GUPTA, ADVOCATES, for the Appellants.

D. S. NEHRU AND MOTI RAM AGGARWAL, ADVOCATES, for the Respondents.

JUDGMENT

BISHAN NARAIN, J.—One Kasturi Lal, instituted two separate suits for possession of two separate pieces of lands situated in villages Mehlan and Mauran, respectively, against iBshan Singh and Bishan Singh's sons, respectively. In both suits a claim for recovery of certain amounts as mesne profits was included. These suits were filed in the Court of Sub-Judge, 2nd Class, Sangrur. Both the suits were decreed on 10th May, 1948. Both these villages at the time of the suits and of the decree fell within the territorial jurisdiction of the Sub-Judge, 2nd Class, Sangrur. On formation of the Patiala and East Punjab States Union in 1948, there was a readjustment of the boundaries of the various tehsils of the Sangrur District and these villages were attached to Sunam Tehsil under Government

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notification with the consequence that these villages ceased to be within the territorial jurisdiction of Sangrur Courts and fell within the territorial jurisdiction of Sunam Courts. After these changes the decree-holder filed two separate applications for execution of these decrees in the Sunam Court. The judgment-debtors pleaded that the Sunam Court had no jurisdiction to execute these decrees and that the proper Court for the purpose was the Sangrur Court. This Plea prevailed in the Executing Court of Sunam and the decree-holder's appeals were dismissed by the District Judge. The learned Single Judge of this Court, however, accepted the decree-holder's second appeals and held that the Sunam Court had jurisdiction to execute these decrees. With his leave the judgment-debtors filed two Letters Patent appeals (Letters Patent Appeals Nos. 14 and 17 of 1958) under Clause 10 of the Letters Patent. When these Letters Patent appeals came up before the Division Bench of which I was a member we decided to refer the same to a larger Bench in view of conflicting decisions in the various High Courts. These appeals have now been placed before us for decision and it will be convenient to decide both of them by this judgment.

The learned counsel for the judgment-debtors first contended that in spite of redistribution of boundaries the Sangrur Courts continued to have territorial jurisdiction over these villages. We did not permit him to raise this new case at the stage of Letters Patent appeals as it is directly opposed to their case as placed before all the Courts till now and as it involved enquiries into the various relevant notifications which I may say could not be brought to our notice because they were not available. In spite of adjournment the learned counsel for both the parties were unable

to produce the Government notification by which these villages were removed from the Sangrur tehsil and were included in the Sunam tehsil. These appeals, therefore, must be decided on the basis of the fact that these villages fell outside the territorial jurisdiction of Sangrur Courts.

It was conceded by the learned counsel for the judgment-debtors that the decree for mesne profits could be executed only by the Court that had territorial jurisdiction to execute the decree for delivery of the lands in suit to the decree-holder probably on the basis of section 16, Civil Procedure Code. It is, therefore, not necessary to discuss this aspect of the matter and we take it that the entire subject-matter of both the decrees fell wholly outside the jurisdiction of Sangrur Courts and fell within the territorial jurisdiction of Sunam Courts.

The question that requires determination, therefore, in these appeals is whether or not the Court to which the local area has been transferred after the passing of the decree can directly entertain an application for execution without an order of transfer by the Court which had in fact passed the decrees. The decision of this question rests on the construction of certain statutory provisions contained in the Code of Civil Procedure. The relevant provisions are sections 37, 38, 39 and 150 of the Code of Civil Procedure. I reproduce them below—

"S. 37. The expression 'Court which passed a decree', or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the

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subject or context, be deemed to include,—

(a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and

(b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit, wherein, the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

S. 38. A deree may be executed either by the Court which passed it, or by the Court to which it is sent for execution.

S. 39.(1) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,—

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

S. 150. Save as otherwise provided, where the business of any Court is transferred to any other Court, the Court to which the business is so transferred shall have the same powers and shall perform the same duties as those respectively, conferred and imposed by or under this Code upon the Court from which the business was so transferred.

Sections 37 to 39 relate to execution of decrees and orders and occur in Part II of the Code while section 150 is found in part IX which contains miscellaneous provisions. Sections 37 to 39 have a direct bearing on the point requiring decision in this case and I proceed to discuss these provisions first.

Now obviously the object and purpose of these provisions along with other provisions occurring in Part II is to facilitate execution of decrees. It is well-known that the real difficulties of a claimant arise after he has obtained a decree from the Courts

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of law and often he fails in execution proceedings to recover what the Courts have held to be due to him. It appears to me that besides the fact that a decree-holder should be able to recover what has been held to be due to him by Courts it is the duty of the Courts of law to see that their orders and decrees are enforced and that these orders do not become ineffective on some technical ground if at all possible. The procedure laid down in the Civil Procedure Code for executing decrees is obviously intended to facilitate and not to obstruct their execution provided that the judgment-debtor is not put to undue and unnecessary harassment. Therefore, these provisions should not be so construed as to impede execution of decrees or as to raise obstructions in the way of their execution and if it is possible these provisions should be construed to make it convenient to the decree-holders to execute their decrees,—(*vide Udit Narain Chaudhuri* v. *Mathura Prasad* (1).

Now section 38 lays down that a decree is to be executed by the Court that passed it or by the Court to which it has been transferred. There is no provision in the Code which takes away this jurisdiction of such a Court. Section 37 which purports to explain the term "the Court which passed the decree" does not exclude the decreeing Court, but only empowers certain other Courts to execute them in certain specified circumstances. It is not necessary to discuss this matter at length as all the High Courts have consistently held that the decreeing Court does not lose jurisdiction to execute the decree because of the provisions in section 37, Civil Procedure Code,—(*vide Latchman Pundeh* v. *Maddan Mohun Shye and others* (2),

(1) I.L.R. 35 Cal. 974.
(2) I.L.R. 6 Cal. 513.

Jahar v. *Kamini Devi* (1), *Masrab Khan* v. *Debnath Mali alias Abhu Mali and others* (2), *Seeni Nadan* v. *Muthusamy Pillai and nine others* (3), and *Jagannath Nathu and others* v. *Ichharam Naroba Vani* (4). This conclusion has now been approved by the Supreme Court in *Merla Ramanna* v. *Nallaparaju and others* (5).

We, therefore, start with the proposition that by virtue of section 38, Civil Procedure Code, the Court which originally passed the decree does not cease to be the decreeing Court even when the subject-matter of the decree has been subsequently transferred to the jurisdiction of another Court. Now the general principle of law is that no Court can execute a decree when its subject-matter is situated outside its local jurisdiction. As a general rule territorial jurisdiction is a condition precedent to a Court executing a decree and no Court can execute it in respect of property which lies outside its territorial jurisdiction,—(*vide Prem Chand Dev* v. *Mokhoda Debi* (6), *Begg. Dunlop and Co.*, v. *Jagannath Marwari* (7), *Sreenath Chakravarti* v. *Priyanath Bandepadhya and others* (8), *Ambika Ranjan Majumdar* v. *Manikganj Loan Office, Ltd.*, (9), observation of Seshagiri Ayyar, J., in *Seeni Nadan* v. *Muthusamy Pillai and nine others* (3), and *Sri Rajah Satrucherla Sivakanda Raju Bahadur Garu* v. *Rajah of Jaypore and others* (10), This principle, however, is subject to certain exceptions. When a suit is filed in a Court by virtue of section 17, Civil Procedure Code, then the

(1) I.L.R. 38 Cal. 238.
(2) A.I.R. 1942 Cal. 321.
(3) I.L.R. 42 Mad. 821.
(4) A.I.R. 1925 Bom. 414.
(5) A.I.R. 1957 S.C. 87.
(6) I.L.R. 17 Cal. 669 (F.B.).
(7) I.L.R. 39 Cal. 104.
(8) A.I.R. 1931 Cal. 312.
(9) I.L.R. 57 Cal. 67.
(10) A.I.R. 1927 Mad. 627.

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decreeing Court can execute the decree although a portion of the immovable property is situated outside its jurisdiction. The provisions contained in Order 21, rule 3 and Order 21, rule 48, Civil Procedure Code, are other exceptions to this general rule. It is, however, not necessary to deal exhaustively with these exceptions as in the present case we are not concerned with them.

In the present case admittedly the entire subject-matter of the decree is situated outside the local jurisdiction of the decreeing Court. Under these decrees the immovable properties since after the passing of the decrees are situated outside the local limits of decreeing Court. Therefore, in the present case the decreeing Court cannot deliver possession to the decree-holder, but all the same it remains the Court that passed the decree and can transfer the decrees to the Court to which these lands have been transferred under section 39(c) of the Code. There can be no doubt that if a decree-holder placed in these circumstances applies to the decreeing Court for execution of his decree by transfer to the Court within whose jurisdiction the property at the time of the application is situated then he can get the relief required by him in a satisfactory manner by following the procedure laid down in sections 39 to 42 and Order 21, rule 5 to Order 21, rule 8, Civil Procedure Code. It is true that this procedure laid down in these provisions is rather an indirect one and it has been described in many cases as cumbersome (*Udit Narain Chaudhuri* v. *Mathura Prasad* (1), but undoubtedly it is effective to get the decree executed and satisfied.

The case of the decree-holder, however, is that although the remedies under sections 39 to 42 are available to him, but it is also open to him to get the relief required by him by taking

(1) I.L.R. 35 Cal. 974.

advantage of section 37 (b) and according to him the cumbersome procedure of sections 39 to 42 can be effectively avoided by applying direct to the Court that alone can give the necessary relief. On the other hand the contention of the judgment-debtors is that this procedure is not open to him as proceedings under section 37 cannot be taken as long as the decree-holder can proceed under section 38 of the Code. It is on this point that there is considerable conflict in the judicial decisions. The Calcutta view is that it is open to the decree-holder to take proceedings either under section 38 or under section 37, Civil Procedure Code, although the decisions of that Court are not unanimous and opposite view has been taken in *Masrab Khan* v. *Debnath Mali alias Abhu Mali and others* (1). The Madras High Court has laid down that it is not open to the decree-holder to apply direct to any Court other than the decreeing Court without getting the decree transferred under section 39, Civil Procedure Code. Even there the view taken in *Latchman Pundeh* v. *Maddan Mohun Shue* (2), was followed in *Zamindar of Vallur and Gudur* v. *Adinarayudu* (3). This judicial conflict is due to the different construction put on section 37, Civil Procedure Code. Broadly speaking the Calcutta view is that section 37 is in addition to section 38 while the Madras view is that section 37 substitutes the Court mentioned in section 38.

Now the heading of section 37 states that it defines the expression "Court which passed a decree". It describes a "Court which passed the decree" under three different circumstances. The word "included" in my opinion in the present context has not been used in an extending or limiting sense, but indicates the Courts which must be

(1) A.I.R. 1942 Cal. 321 (D.B.)
(2) I.L.R. 6 Cal. 513.
(3) I.L.R. 39 Mad. 445.

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considered as the "Courts which passed the decree", without excluding the decreeing Court. The Legislature takes into consideration three contingencies that may arise when the decree-holder seeks to execute his decree and indicates the Courts which may be treated as the decreeing Courts. It lays down that (1) when a decree is passed by an appellate Court then the trial Court is to be considered the decreeing Court for purposes of initiating execution proceedings; (2) when the trial Court has ceased to exist then the decreeing Court shall be the Court which would have entertained the suit for the relief granted in the decree; (3) but when the trial Court has ceased to have jurisdiction to execute the decree then the decreeing Court will be the one which could have entertained the suit for the relief granted in the decree. I see no reason why these provisions in section 37 should be considered to be in substitution of the Courts mentioned in section 38, Civil Procedure Code. I say so with great respect to the eminent Judges, who have taken a different view. The provisions of section 37 are intended to give an additional remedy to the decree-holder. It is to be noticed that when an appellate Court passes a decree then it can also transfer the decree of its own motion for execution to the subordinate Court under Section 39(2) of the Code. Obviously this can also be done on the application of a decree-holder. Therefore, in such cases it is open to the decree-holder to avail of either of the two remedies. As a matter of practice these applications are filed in the trial Court.

The first portion of section 37(b) deals with a case where the decreeing Court has been abolished since after the decree. In such a case as observed in *Masrab Khan* v. *Dabnath Mali alias Abhu Mali and others* (1), there can be no application

(1) A.I.R. 1942 Cal. 321.

under section 38, Civil Procedure Code and the decree-holder has no course open to him, but to apply to a Court indicated under section 37(b). The second part of section 37(b) empowers the decree-holder to file an execution application to a Court where a suit for the same relief could have been filed. This is an additional right and it has been given with a view to avoid cumbersome procedure of approaching the decreeing Court under section 38 of the Code and then asking it to transfer the decree under section 39 of the Code. It is this last category on which the judicial unanimity is lacking.

A question has been raised in many cases as to what is the meaning of the expression "ceased to have jurisdiction to execute it" and the examples given in various judgments relate to loss of jurisdiction other than territorial jurisdiction. The word "jurisdiction" in this expression should be given its literal meaning, that is, of any kind whatsoever. A Court may cease to have territorial or pecuniary jurisdiction or may cease to have jurisdiction over the subject-matter of the litigation. This section deals with the loss of this jurisdiction after the passing of the decree. In my opinion in all cases of loss of jurisdiction whether territorial, pecuniary or on the subject-matter after a decree has been passed empowers the decree-holder to file an application direct to the Court that can execute it and he is not limited to seek his relief from the decreeing Court only.

When one is considering whether or not the decreeing Court has ceased to have jurisdiction to execute its decree, one has to look to the decree according to its tenor and as it stands. If the decree as such can be partly executed by the decreeing Court or if it is possible for it to execute

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it partly or wholly then it has not lost its jurisdiction to execute it and section 37 does not come into the picture. If the decree-holder wishes to execute a decree for money by attachment of the properties lying outside the jurisdiction of the decreeing Court then it cannot be said that the decreeing Court has ceased to have jurisdiction to execute the decree although it cannot attach such properties. All that can be said is that the decreeing Court cannot enforce the decree by the mode of execution sought by the decree-holder. In such cases procedure under sections 38 and 39 must be adopted. A Court under section 37 ceases to have jurisdiction to execute a decree only when it is unable to give the relief according to the tenor of the decree and not otherwise. It follows from the view that when the decreeing Court has entirely lost jurisdiction to execute the decree according to its tenor then it remains only a "notional" Court that passed the decree for the purposes of its execution and all that it can do is to transfer a copy of the decree to the Court that has jurisdiction to execute it and then to receive a certificate of satisfaction or otherwise from it. For these reasons I am of the opinion that sections 37 and 38 of the Code when construed according to the language used therein empower the decree-holder to file an execution application either to the Court that actually passed the decree or to the Court that can effectively execute it and in the latter case it is not necessary to comply with the provisions of section 39 of the Code. I am expressing this opinion with due respect to the learned Judges, who have taken an opposite view.

In the course of arguments it was suggested that this view will result in confusion in the decreeing Court and will put the judgment-debtor to undue hardship. I see no such consequence. When an application is made to a Court in accord-

ance with the provisions of section 37 then it will no doubt summon the decree and, if necessary, the entire record from the Court that actually passed the decree. That record is of no use to the decreeing Court and in any case this adminitsrative problem cannot be allowed to deprive a decree-holder of a right which has been given to him under section 37 of the Code. Another harassment to the judgment-debtor was suggested on the ground that the decree-holder will then be able to move both the Courts simultaneously. That it may be so, but separate applications in both Courts in a case of present nature can have only one consequence and that is the Court having jurisdiction under section 37 will execute it whether it gets it directly from the decree-holder or the decreeing Court transferred it under section 39, Civil Procedure Code. Then it was suggested that a decree may be executed simultaneously even in more than two Courts. The argument taken is this. When a decree directs delivery of possession of three separate plots of lands and when all three plots of lands are taken out of the jurisdiction of the decreeing Court and these lands fall separately within the territorial jurisdictions of three different Courts then it will be open to the decree-holder to file simultaneously four applications for execution. This is so, but this does not mean that the judgment-debtor is being unduly harassed. The same consequence will follow when an application is made to the decreeing Court because then that Court will have to send a copy of the decree to all the three Courts for execution under section 39(c) of the Code. There is nothing in the Code which prohibits simultaneous execution of the decree in various Courts unless the relief sought in them is precisely the same. It is well established that it is open to the decree-holder to try to execute his decree simultaneously in

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various Courts provided the relief claimed in these applications is not identical,—*vide S. Sundara Rao* v. *B. Appiah Naidu and another* (1), in which the entire case-law on the point has been discussed. Whether the simultaneous execution takes place in the Court that actually issued a decree and the transferee Court or whether it takes place in the Court which actually passed the decree and the Court indicated under section 37(b) of the Code makes no difference in principle.

As regards the case-law on the point I do not consider it necessary to discuss the reasons given by the various learned Judges for expressing conflicting conclusions because I have given my own reasons for my conclusion. My view is in consonance with the views expressed in *Latchman Pundeh* v. *Maddan Mohun Shye and others* (2), *Jahar* v. *Kamini Debi* (3), *Udit Narain Chaudhuri* v. *Mathura Prasad* (4), and *Sreenath Chakravarti and others* v. *Priyanath Bandopadhya and others* (5), while it is in conflict with the view taken in *Subramanya Ayyar* v. *Swaminatha Chettiar and another* (6), *Ramier* v. *Mathu Krishna Ayyar and others* (7), *Packianathan Nadar Maryarul Nadar* v. *Mathevan Pillai Nanu Pillai* (8), and *Masrab Khan* v. *Debnath Mali* alias *Abhu Mali and others* (9). I do not consider it necessary to burden this judgment by discussing the facts of these cases and then repeat my reasons for my views.

I, therefore, hold that it was open to the decree-holder in the present case to apply for

(1) A.I.R. 1954 Mysore 1 (F.B.).
(2) I.L.R. 6 Cal. 513.
(3) I.L.R. 38 Cal. 238.
(4) I.L.R. 35 Cal. 974.
(5) A.I.R. 1931 Cal. 312.
(6) A.I.R. 1928 Mad. 746.
(7) A.I.R. 1932 Mad. 418 (F.B.).
(8) A.I.R. 1957 Trav. Co. 69.
(9) A.I.R. 1942 Cal. 321.

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execution of the decrees obtained by him from the Sangrur Court in the Sunam Courts.

Before concluding this judgment I may discuss section 150, Civil Procedure Code, on which the decree-holder has relied in support of his contention that the decree-holder could make application direct to the Sunam Court for execution of the decrees obtained by him. Section 150 has already been reproduced in the beginning of this judgment. The Government notification under which boundaries have been altered is not before us. It was urged on behalf of the decree-holder that where territories are altered as in the present case it must be assumed that the business of that Court is also transferred to the Court to which the territory has been attached. I am unable to accept this contention. It is impossible to hold that the transfer of territories is proof *per se* of the transfer of business of the Courts concerned,—*vide Inter alia Ramier* v. *Muthu Krishna Ayyar and others* (1). It is a question of fact in each case whether at the time of transfer of territories the business of the Courts has or has not been transferred.

The result is that these Letters Patent appeals fail and I dismiss them with costs.

S. B. CAPOOR, J.—I agree.

S. S. DULAT, J.—I agree.

S. B. Capoor.

S. S. Dulat.

B.R.T.

CIVIL MISCELLANEOUS

Before Bishan Narain, J.

MESSRS KISHAN PRASAD AND CO., LTD,—*Petitioner.*

versus

THE ASSESSING AUTHORITY, AMBALA, AND ANOTHER,—*Respondents.*

Civil Writ No. 277 of 1960.

East Punjab General Sales-tax Act (XLVI of 1948)—Section 2 (h) Explanation (1)—Whether valid—Hire purchase contracts—When amount to sale.

(1) A.I.R. 1932 Mad. 418 (F.B.).