

(2003) 03 AHC CK 0107

In the Allahabad High Court

Case No : C.M.W.P. No's. 38131 of 1995, 8109 and 8110 of 1996

Ram Saran and Others

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 12-03-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100
Constitution of India, 1950 — Article 226
Limitation Act, 1963 — Section 5
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 209, 229B, 331, 331(4)

Citation : (2003) 3 AWC 1701 : (2004) 97 RD 127

Hon'ble Judges : R.H. Zaidi, J

Bench : Single Bench

Advocate : Vikram Nath and N.L. Srivastava, for the Appellant; D.V. Jaiswal and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

R.H. Zaidi, J.—The above noted three petitions arise out of the Suit No. 87 of 1975 filed u/s 229B/209 of the U. P. Zamindari Abolition and Land Reforms Act, for short "the Act" by Smt. Rama Devi, petitioner in Writ Petition No. 38131 of 1995, hereinafter referred to as the plaintiff. In all these cases, subject matter of dispute is the same, as prayed by the learned counsel for the parties, they were, therefore, connected, heard together and are being decided by this common judgment.

2. The relevant facts of the case giving rise to the aforesaid petitions are that Smt. Rama Devi filed Suit No. 87 of 1975 u/s 229B/209 of the Act for declaration and ejectment against Smt. Gomti Devi, widow of Murari Singh, and others pleading that she was bhumidhar and in possession of the land in dispute, that originally Ram Lal son of Jhandu Singh, brother of her husband, was a tenant of the same. He executed a Will in her favour on 8.7.1965, which was registered on 15.7.1965. It was on 14.9.1966 that Ram Lal disappeared from the village and

remained untraceable (lapta). One Ram Charan also lodged a first information report at the police station on 7.10.1976 regarding the disappearance of Ram Lal. Since the aforesaid date more than 7 years have elapsed, therefore, Ram Lal shall be deemed to have died civil death on 14.9.1973, hence the plaintiff on the basis of the aforesaid Will became bhumidhar of the land in dispute. It was on 1.1.1973 that Smt. Gomti Devi, defendant No. 1, applied for mutation claiming that she was the sister of deceased Ram Lal. Smt. Rama Devi, plaintiff, also filed an application for mutation of her name over the land in dispute in the revenue papers on the basis of the aforesaid Will. To the said application Smt. Gomti Devi filed objection. The mutation proceedings were summary in nature and in the same title of the parties to the land in dispute could not be decided. On the other hand, one Raghuvansh, father of Yatindra and others, was asserting his possession over the land in dispute. It has been stated that mutation application was also filed by Smt. Rama Devi before Tehsildar, Dhampur after serving notice upon the defendant Nos. 3 and 4, but the same was not decided, hence the suit for aforesaid reliefs.

3. In the aforesaid suit three written statements were filed. One by the State pleading that the plaintiff Smt. Rama Devi was not the tenant of the land in dispute and that the suit filed by her was barred by Section 34 (5) of the U. P. Land Revenue Act. Second written statement was filed by Smt. Gomti Devi, who pleaded that the plaintiff had no right in the land in dispute in her presence. The suit, therefore, according to her, as framed and filed was legally not maintainable. The plaintiff was neither tenant nor in possession of the land in dispute. After the death of Ram Lal, who was her real brother, she inherited the land in dispute and was in possession of the same. It was also pleaded that no Will was executed by Ram Lal in favour of the plaintiff. The Will deed set up by the plaintiff was a forged and fictitious document and that Ram Lal had no brother and defendant No. 1 Smt. Gomti Devi was the real sister, who inherited the land in dispute after the death of Ram Lal. According to her, the suit was liable to be dismissed. The third written statement was filed by Raghuvansh, father of Yatindra, Jitendra and Virendra, respondents, pleading that the Will set up by the plaintiff was a forged and farzi document, the same was never executed by Ram Lal and that he was in adverse possession of the land in dispute on the basis of which he acquired sirdari rights in the same.

4. On the pleadings of the parties, the trial court framed as many as eight issues, which are quoted below :

- (1) Whether the plaintiff is bhumidhar of the land in dispute?
- (2) Whether Ram Lal has died as alleged in the plaint and the suit is maintainable?
- (3) Whether Ram Lal has executed any Will in favour of the plaintiff?
- (4) Whether defendant No. 1 is the bhumidhar of the land in dispute?

(5) Whether defendant No. 1 is sirdar of the land in dispute?

(6) Whether the suit is barred by Section 34 (5) of the U. P. Land Revenue Act?

(7) Whether any notice u/s 80, C.P.C. was given to the State of Uttar Pradesh, if any, effect?

(8) What relief, if any, plaintiff is entitled?

5. The parties in support of their cases produced evidence, oral and documentary. The trial court after going through the evidence on the record decided all the aforesaid issues in favour of the plaintiff and decreed the suit by its judgment and decree dated 27.1.1977. The operative portion of the said judgment is quoted below :

"The suit of the plaintiff is decreed. She is declared bhumidhar of the land in dispute. Sri Raghuvansh is hereby ejected from the land in dispute. Cost easy."

6. Challenging the validity of the aforesaid decree two appeals were filed, one by Smt. Gomti Devi and other by Sri Raghuvansh. The appeal filed by Smt. Gomti Devi was dismissed for default on 6.10.1977 but the same was restored on an application filed by her on 30.1.1979 by the first appellate court. Thereafter again the appeal was dismissed for default on 28.6.1984. The said order was also recalled on 14.11.1984 and the appeal was restored. Her appeal was again dismissed for default on 6.4.1987. Thereafter, Smt. Gomti Devi did not file any application for restoration within the time prescribed under the law. Long thereafter a restoration application was filed along with an application u/s 5 of the Limitation Act. The Commissioner after hearing the parties dismissed the application filed u/s 5 of the Limitation Act as well as the restoration application by his judgment and order dated 4.11.1988 against which First Appeal From Order No. 15 of 1988-89 was filed by Smt. Gomti Devi, which was also dismissed on 5.12.1995 by the respondent No. 1 and findings recorded and the order passed by the Commissioner were affirmed. The second appeal filed by the sons of Raghuvansh No. 50A of 1987-88 was allowed by respondent No. 1 by its Judgment and order dated 5.12.1995. Thereafter, heirs of Smt. Gomti Devi filed two writ petitions which were also dismissed. Challenging the validity of the order dated 5.12.1995, Writ Petition No. 38131 of 1995 has been filed by Smt. Rama Devi. Ram Saran and others filed Writ Petition No. 8109 of 1996 challenging the orders dated 5.12.1995, 4.11.1988 and 6.10.1987. They have also filed Writ Petition No. 8110 of 1996 challenging the validity of the orders dated 5.12.1995, 4.7.1988 and 27.1.1977 referred to above.

Civil Misc. Writ Petition No. 8109 of 1996. Ram Saran and Ors., v. Board of Revenue. U. P. and Ors. :

7. In this petition, learned counsel for the petitioners vehemently urged that the courts below have acted illegally in dismissing the applications filed by Smt. Gomti Devi for condonation of delay and for restoration of the appeal. They should have, according to him, allowed the said applications under the facts and

circumstances of the present case. On the other hand, learned counsel appearing for the plaintiff, Smt. Rama Devi supported the validity of the orders passed by the courts below. It was submitted that they are concluded by concurrent findings of fact and that Smt. Gomti Devi failed to make out the case for condonation of delay in filing the restoration application and for restoration of the appeal, therefore, the courts below were justified in rejecting the applications and in dismissing the appeal. In support of his submissions, he has referred to and relied upon the following decisions :

- (1) Binod Bihari Singh Vs. Union of India, ;
- (2) Salil Dutta Vs. T.M. and M.C. Private Ltd., ; and
- (3) Intezar Ahmad and Anr. v. Jumman and Ors. 1995 (1) AWC 618 : 1995 (26) ALR 264.

8. I have considered the submissions made by learned counsel for the parties and carefully perused the record.

9. Admittedly, Smt. Gomti Devi had two sons ; Ram Saran and Chandra Kiran. According to the findings recorded by the first appellate court, which are based on relevant evidence on the record, the first appeal filed by Smt. Gomti Devi against the judgment and decree passed by the trial court was dismissed for default thrice ; firstly on 6.1.1979, secondly on 28.6.1984 and thirdly on 6.4.1987 which shows that appeal was not being prosecuted diligently by her. First two orders were recalled on the applications made by Smt. Gomti Devi through her sons. In the application for recalling the order dated 6.4.1987, the plea taken by Smt, Gomti Devi was that she was ill from 4.4.1987 to 16.7.1988. Consequently, the restoration application could not be filed within the period prescribed under the law. The same was filed along with an application u/s 5 of the Limitation Act with only prayer for condonation of delay in filing the restoration application. The abatement takes place automatically. No prayer for setting aside abatement was made either in this application or in the application for restoration. Thus, the application as framed and filed was legally not maintainable. The said application was supported by her affidavit and a medical certificate Issued by a private doctor. In the present case, the validity and genuineness of the medical certificate was challenged by Smt. Rama Devi. Nobody appeared to prove the contents of the said certificate, the same, therefore, could not be relied upon and was liable to be ignored. In the objection filed by Smt. Rama Devi, it was asserted that in the case since very beginning, the pairvi was being done by the sons of Smt. Gomti Devi and not by Smt, Gomti Devi, even the restoration applications dated 15.1.1979 and 3.4,1984 were filed along with the affidavits of Ram Saran, one of the sons of Smt. Gomti Devi. There was nothing on the record to show that the relationship of Gomti Devi with her sons became strained. It was asserted that personal presence of Smt. Gomti Devi in the Court at the time of hearing of appeal was not necessary. The appeal was to be argued by the counsel and the pairvi could be done by her sons. It was

also asserted that the grounds taken for condonation of delay and for restoration of the appeal were false and frivolous in the so called medical certificate, the disease by which she was stated to be suffering was mentioned as arthritis only. The applications filed on behalf of Smt. Gomti Devi were, thus, liable to be dismissed.

10. The first appellate court after perusing the material on the record accepted the submissions made on behalf of learned counsel appearing for Smt. Rama Devi and dismissed the application for condonation of delay as well as restoration application by its judgment and order dated 4.11.1988 holding that even on the date of arguments, i.e., 28.10.1988 Smt. Gomti Devi was not present but her sons were present in the Court. In the other cases also, in which Smt. Gomti Devi was a party, her sons have been doing pairvi and that there was nothing on the record to show that relations between Smt. Gomti Devi and her sons became strained. Thus, there was no reason as to why her counsel did not appear in the case before the Court to argue the appeal on the date fixed and as to why her sons did not do the necessary pairvi, if any. Having recorded the said findings the application was dismissed by the first appellate court. Thereafter, Smt. Gomti Devi filed First Appeal From Order No. 15 of 1988-89 before the respondent No. 1 against the order passed by the first appellate court. The respondent No. 1 after hearing the parties and after perusing the material on the record held as under :

"The application of Smt. Gomti Devi was opposed and a counter-affidavit was filed specifying therein that on previous dates also Smt. Gomti Devi's appeal was dismissed in default and those orders were recalled on the application of her son Ram Saran and her counsel. Hence, the plea of Smt. Gomti Devi that there was no person to pursue her case was incorrect. This assertion of Smt. Rama Devi has been relied upon by learned Additional Commissioner. The file also reveals that Ram Saran and Chandra Kiran are the sons of Smt. Gomti Devi and they had always been pursuing the case on her behalf. Hence, the plea of Smt. Gomti Devi in the restoration application has rightly been taken as incorrect and false one. The learned Additional Commissioner has considered in detail the points at issue, and I find no necessity of interfering with his order."

Having recorded the aforesaid findings, the appeal was dismissed by respondent No. 1.

11. In Binod Bihari Singh Vs. Union of India, , it was ruled by Hon"ble Supreme Court as under :

"In our view, it is not at all fit case where in the anxiety to render justice to a party so that a just cause is not defeated, a pragmatic view should be taken by the Court in considering the sufficient cause for condonation of delay u/s 5 of the Limitation Act. Coming to the contention of Mr. Ranjit Kumar that to defeat a just claim of the appellant, the ignoble plea of bar of limitation sought to be raised by respondent should not be taken into consideration, we may indicate that it may

not be desirable for the Government or the public authority to take shelter under the plea of limitation to defeat a just claim of a citizen. But if a claim is barred by limitation and such plea is raised specifically, the Court cannot straightaway dismiss the plea simply on the score that such plea is ignoble. A bar of limitation may be considered even if such plea has not been specifically raised. Limitation Act is a statute of repose and bar of a cause of action in a court of law, which is otherwise lawful and valid, because of undesirable lapse of time as contained in the Limitation Act, has been made on a well accepted principle of jurisprudence and public policy. That apart, the appellant, in this case, having taken a false stand on the question of receipt of the signed copy of the award to get rid of bar of limitation, should not be encouraged to get any premium on the falsehood on his part by rejecting the plea of limitation raised by the respondent."

12. The Supreme Court, thus, ruled that in the matter of condonation of delay, the conduct of the parties seeking condonation is relevant and if false plea is taken by a party to get rid of bar of limitation, such a party should not be encouraged while rejecting the bar of limitation pleaded by opposite party in condoning the delay.

13. In the case of Salil Dutta (supra), also, the Apex Court has ruled that if the conduct of a party is found to be non-cooperative with the Court, a restoration application by such a party should not be allowed.

14. In the present case, the conduct of Smt. Gomti Devi is apparent from the fact that she permitted her appeal to be dismissed for default before the first appellate court three times. The appellate court twice restored the same but refused to restore 3rd time, as a very highly belated restoration application was filed, that too with totally frivolous pleas.

15. Even In the case of Intezar Ahmad and Another (supra), this Court held that goodness of cause for non-appearance envisaged in Rule 7 of Order IX of the Code and truthfulness of the cause for non-appearance are not synonymous. They are quite distinct. Once the cause for default in appearance is found to be untrue, it cannot be held to be a good cause and the prayer for setting aside the order directing the suit to be heard ex parte cannot be allowed.

16. In view of the aforesaid discussions, in my opinion, the courts below did not commit any error of law or jurisdiction in dismissing the applications filed by Smt. Gomti Devi for condonation of delay and for restoration. The judgments and orders passed by the courts below are concluded by concurrent findings of fact, which are based on the relevant evidence on the record. No case for interference by this Court under Article 226 of the Constitution of India is made out. This petition is, therefore, liable to be dismissed.

Civil Misc. Writ Petition No. 8110 of 1996, Ram Saran and Ors. v. Board of Revenue, U. P. and Ors. ;

17. In the present case, learned counsel for the petitioner submitted that the

impugned orders passed by the courts below were Illegal and were liable to be quashed. On the other hand, learned counsel appearing for Smt. Rama Devi submitted that the present petition as framed and filed by the petitioners was legally not competent. According to him, the claim of Gomti Devi through whom the petitioners were claiming rights in the land in dispute, having already been rejected by the courts below, they had no right to file the present petition.

18. I have considered the submissions made by the learned counsel for the parties.

19. The above noted petition, as stated above, has been filed by the sons of Smt. Gomti Devi challenging the validity of the orders dated 27.1.1977, 4.7.1988 and 5.12.1995 passed by the courts below. Ram Saran and his brother have been claiming rights in the land in dispute through Smt. Gomti. They had no other personal right in the land in dispute. The claim of Gomti Devi has already been rejected by the courts below, the writ petition filed by the petitioners Ram Saran and his brother is, thus, legally not maintainable. The judgments and orders passed against Smt. Gomti Devi are also binding upon the petitioners in the present case. This petition, therefore, also deserves to be dismissed.

Civil Misc. Writ Petition No. 38131 of 1995, Smt. Rama Devi v. Board of Revenue, U. P. and Ors. :

20. In this petition, learned counsel for the petitioner vehemently urged that the respondent No. 1 acted wholly illegally in excess of his jurisdiction in acting as first appellate court, in interfering with the concurrent findings of fact recorded by the courts below, contrary to the provisions of Section 331 of the Act read with Section 100, C.P.C., which provided that a second appeal could be entertained only on substantial question or questions of law and not otherwise. The respondent No. 1 did not formulate any substantial question of law. It has formulated two questions, which involved factual controversy and answered the same in favour of Raghuvansh after noticing incorrect facts in its judgment. The judgment and decree passed by the respondent No. 1 was, thus, liable to be quashed and the writ petition deserved to be allowed.

21. On the other hand, learned counsel appearing for Raghuvansh supported the validity of the order passed by respondent No. 1 and submitted that the second appeal was rightly allowed by the said respondent. According to him, the writ petition had no merit and was liable to be dismissed.

22. I have considered the submissions made by learned counsel for the parties and carefully perused the record.

23. Admittedly, the trial court and first appellate court recorded the concurrent findings on all issues in favour of Smt. Rama Devi and decreed her suit after upholding her claim on the basis of the registered Will. The respondent No. 1 could entertain the second appeal u/s 331 of the Act. Sub-sections (3) and (4) of Section 331 of the Act provide as under :

"331. Cognizance of suits, etc. under this Act.--(1)

(2) (3) An appeal shall lie from any decree or from an order passed u/s 47 or an order of the nature mentioned in Section 104 of the Code of Civil Procedure, 1908 (V of 1908) or in Order XLII, Rule 1 of the First Schedule to that Code passed by a Court mentioned in column No. 4 of Schedule II to this Act in proceedings mentioned in column No. 3 thereof to the Court or authority mentioned in column No. 5 thereof.

(4) A second appeal shall lie on any of the grounds specified in Section 100 of the Code of Civil Procedure, 1908 [V of 1908] from the final order or decree passed in an appeal under Sub-section (3), to the authority, if any, mentioned against it in column 6 of the Schedule aforesaid."

24. A reading of the aforesaid Sub-section (4), referred to above, clearly reveals that a second appeal could be filed before the Board of Revenue from final order or decree passed in appeal under Sub-section (3) before it on any of the grounds specified in Section 100 of the Code of Civil Procedure, 1908. Section 100 of the Code of Civil Procedure, 1908, provides as under :

(Only relevant quoted)

"100. Second appeal.--(1) Save as otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court, if the High Court is satisfied that the case involves a substantial question of law.

(2) (3) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard on the question so formulated and the respondent shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question :

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question."

25. Section 100 referred to above, of the CPC provides that a second appeal may be filed against the appellate decree ; that the memorandum of appeal shall precisely state the substantial question of law involved in the appeal ; that the High Court should be satisfied that a substantial question of law is involved in the case and it shall formulate that question. In the present case, neither in the memo of appeal any substantial question of law is stated to have been

formulated nor the respondent No. 1 while admitting the appeal, formulated any substantial question of law. However, the respondent No. 1 while deciding the second appeal, formulated following questions :

- (1) Whether Will deed in question was genuine or not, and
- (2) Whether contesting appellants matured their rights on the land in dispute by way of adverse possession or not.

26. Both the aforesaid questions were decided by the courts below in favour of Smt. Rama Devi. They have recorded concurrent findings on the said questions. The said questions also involved factual controversy, therefore, the same could not be said to be substantial questions of law. While dealing with the question of genuineness of the Will, the respondent No. 1 noticed totally wrong facts which were also against the record as under :

"Apart from this, the original Will deed has never been produced before the Court and only its copy had been filed. It is also clear that scribe of the Will has not been produced to prove the same. Under what circumstances, the original Will deed has been withheld, is not clear. Withholding of primary evidence without any rhyme or reason creates doubt in the matter."

27. Having recorded the above noted findings, the respondent No. 1 observed that the Will deed in question was not properly proved and that the conclusions reached by the trial court that the Will was genuine is against the facts on record and the courts below have wrongly held that the Will deed was genuine one. The correct facts were stated in the judgment of the trial court while dealing with the issues No. 1, 3, 4 and 5 as under :

"In support of these issues, the plaintiff has filed certified copy of the Will deed alleged to have been executed in her favour by Ram Lal, the deceased. Besides she has also summoned case file No. 44 u/s 34 of the U. P. Land Revenue Act, Smt. Gomti Devi v. Ram Lal This file contains the alleged original Will deed. Besides the plaintiff has examined Kaindra Dutta (P.W. 1) and Nand Kishore (P.W. 3), husband of Smt. Rama Devi in whose favour the Will is said to have been executed. The plaintiff has also examined Rafique Ahmad, P.W. 2 and Shiv Charan (P.W. 4), of her case."

28. It appears that the respondent No. 1 has neither seen the record of the case nor gone through the judgment passed by the trial court and acting wholly arbitrarily observed that the original Will was not filed by the plaintiff and that the execution of the Will was doubtful. The findings recorded by the respondent No. 1 on the question of execution and genuineness of the Will are, thus, wholly perverse and against the record of the case.

29. While dealing with the question of maturity of the rights by adverse possession by Shri Raghuvansh, who was son-in-law of Smt. Gomti Devi, the respondent No. 1 held that the possession of Raghuvansh had been recorded from 1375 Fasli to 1380 Fasli. It has been held that Raghuvansh remained in

adverse possession for a period of four years and had matured the title over the land in dispute.

30. In his statement on oath, Raghuvansh Singh did not specify the date of his occupation of the land in dispute and also did not name the person against whom he claimed adverse possession. He has filed Khasra extracts, as stated above, for the year 1375 Fasli to 1380 Fasli, i.e., only for four years. No other reliable evidence had been filed regarding his possession. It is apparent from Annexure-4 to the writ petition that his name was directed to be recorded in the revenue papers on 29.10.1967 by Supervisor Qanungo In Class IX. Assuming that he came into possession in the year 1375 Fasli, mere possession does not confer title of whatever duration it might be. There is nothing on the record to show that the possession of Raghuvansh was adverse, either to Ram Lal or to Smt. Gomti Devi. On the other hand, he was closely related to them. If his possession is presumed to be from 1375 Fasli to 1380 Fasli. (It will be for the years 1968 to 1973). In view of Appendix III, Column 5 of the Rules framed under the Act, the possession of Raghuvansh shall be reckoned from 1.7.1969. Limitation for filing a suit u/s 209 upto 27.3.1969 was three years, from 27.3.1969 to 14.1.1971, six years and from 14.1.1971 vide Notification No. 450/I-3-1(2)-70, dated October 14, 1971 onward it was raised to twelve years. Thus, in any view of the matter, Raghuvansh did not perfect his title on the basis of adverse possession as the suit was filed on 28.10.1974, that is within the limitation prescribed for the same. The view taken to the contrary by the court below that Raghuvansh has perfected his title by adverse possession, is admittedly erroneous and perverse.

31. Thus, on the relevant date, for acquisition of title by adverse possession 12 years" adverse possession was required. As stated above, Ram Lal died civil death on 14.9.1973 and the suit was filed on 28.10.1974. At the cost of repetition, it may be stated that there arose no question of acquisition of title in the land in dispute by adverse possession by Raghuvansh Singh. The view taken to the contrary by the respondent No. 1 is manifestly erroneous and illegal. Further, nature and duration of possession are questions of fact. The trial court and the First Appellate Court have recorded concurrent findings of fact on the said questions, as stated above, which are based on the relevant evidence on record against Raghuvansh. They were as such, binding upon the respondent No. 1. The respondent No. 1 had no jurisdiction to interfere with the said findings. Thus, even on the question of limitation, judgment and order passed by the respondent No. 1 is manifestly erroneous.

32. It is further stated that believing or disbelieving of evidence is a question of fact. The trial court and the first appellate court believed the evidence produced by Smt. Rama Devi and recorded concurrent findings on all questions involved in the case, there was, therefore, no justification for respondent No. 1 to reappraise the evidence on the record and to substitute his own findings for the findings recorded by the courts below, that too without formulating any substantial question of law. The judgment and order passed by the respondent No. 1 is,

thus, wholly illegal, perverse and without jurisdiction.

33. In view of the aforesaid discussions, the Writ Petition Nos. 8109 of 1996 and 8110 of 1996 are hereby dismissed while Writ Petition No. 38131 of 1995 is allowed. The judgment and order dated 5.12,1995 passed by the respondent No. 1 is hereby quashed. No order as to costs.