

In Re: Abdul Rasul Ismailji

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Court : Mumbai

Decided On : Jun-29-1911

Reported in : (1911)13BOMLR548

Judge : N.G. Chandararkar, ;Kt. and ;Hayward, JJ.

Appeal No. : Criminal Application for Revision No. 171 of 1911

Appellant : In Re: Abdul Rasul Ismailji

Judgement :

1. We see no reason whatever to admit this application. The Workmen's Breach of Contract Act (Act XIII of 1859) has been construed in a number of cases, and it has been held, without any dissent by all the High Courts, that the Act does not apply, where the advance is literally or practically in the nature of a debt, and where, even assuming that the advance is not in the nature of a debt, the conditions are inequitable. The Magistrate has found that in his opinion the conditions in the present case are inequitable, because the period of employment is indefinite. Apart from that it is evident on a proper construction of the terms of the contract that the advance of Rs. 150 was in the nature of a loan to be repaid by the servant out of the wages which he was to receive; so that the advance' was not to be paid off by the work done but out of the wages he was to receive.

2.The application must be rejected.

