SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Ratan Singh Vs. Khem Karan

Ratan Singh Vs. Khem Karan

SooperKanoon Citation : sooperkanoon.com/449268

Court : Allahabad

Decided On : Jan-26-1918

Reported in : (1918)ILR40All358

Judge : Tudball, J.

Appellant : Ratan Singh

Respondent : Khem Karan

Judgement :

Tudball, J.

1. This is an appeal in a suit brought by the appellant for a declaration under Section 95 of the Tenancy Act, that he has occupancy rights in a certain holding. The suit is purely a declaratory suit. The question is what is the court fee payable on the appeal. Prima facie the suit falls clearly within Schedule II, Article 5, of the Court Fees Act, which lays down that on a plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy a court fee of eight annas should be paid. The only difficulty in the case arises by reason of two previous Judges of this Court having in similar cases directed that a fee of Rs. 10 was payable. In neither of these decisions was Schedule II, Article 5, apparently considered. The suit is not one to which Section 7, Clause XI, of the Court Fees Act is applicable. As I have said above, it is purely a declaratory suit, and nothing more, in which the plaintiff seeks to establish that he has a right of occupancy. In my opinion the law

is plain and the appeal is governed by Schedule II, Article 5, of the Court Fees Act and the court fee payable is eight annas according thereto. I so direct.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com