

Habibullah Khan Vs. Abdullah Khan and ors.

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Court : Allahabad

Decided On : Jan-25-1911

Reported in : 9Ind.Cas.804

Judge : Richards, J.

Appellant : Habibullah Khan

Respondent : Abdullah Khan and ors.

Judgement :

Richards, J.

1. This appeal arises out of a suit in which the plaintiff claimed possession of a certain property. The defence was that the property was never at any time the property of the plaintiff. The defendants went on to show that the parties were related, that the property in dispute although purchased in the name of the plaintiff when he was a child of three years was never his and that finally in a family arbitration it was specifically awarded to the defendants. The Court of first instance in an elaborate and careful judgment dealt with all the facts. The judgment of the District Judge is very short and it certainly does not comply with the provisions of Order XLI, Rule 31 of the Code of Civil Procedure. I can, however, see that the questions which arose in the case were really decided. The evidence in favour of the defendants was overwhelming and I do not intend to put the parties to the unnecessary expenses of a further litigation. I, however, wish to point out to the

learned District Judge that Order XLI, Rule 31 provides that his judgment as an Appellate Court should state (1) the points for determination, (2) the decision thereon and (3) the reasons for the decision. In very many cases Mr. Simpson has neglected to observe the provisions of Order XLI, Rule 31 of the Code. In a simple case the judge can comply with terms of Order XLI, Rule 31 without writing an unnecessarily long judgment. I hope in future the learned District Judge will pay attention to the rule. In the present case the only ground of appeal is the non-compliance by the Judge with the rule and I have already ordered that the attention of the District Judge should be called to this. I dismiss the appeal.

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