

Dallo Vs. Jagan Lal

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Court : Allahabad

Decided On : Jul-13-1928

Reported in : AIR1928All688; 110Ind.Cas.818

Appellant : Dallo

Respondent : Jagan Lal

Judgement :

Dalal, J.

1. It is correctly stated in the ground of objection that what the lower Court has put in as a judgment is no judgment in fact. The Court itself appears to have felt some shyness in calling it a judgment, and has headed it as finding. Under Order 60 the Code of Civil Procedure directs exemption of the application of certain provisions of the Code to Provincial Small Cause Courts. Order 20 relating to judgments and decrees is not exempted. It is true that under Rule 4, Order 20 a judgment of a Court of Small Causes need not contain more than the points for determination and the decision thereon. What the Judge is pleased to state in this particular case is:

I disbelieve the defence. Claim proved and decreed with costs.

2. The points for determination are not stated. So naturally the decisions thereon would not be stated as well. The disbelief of a defence does not naturally involve

the proof of a claim. It will be seen that the Judge has gone the wrong way about in discovering the truth in thinking of the defence first and of the claim afterwards. A Court has to see whether there is proof of claim before it need inquire as to the truth or otherwise of the defence. It is quite possible that the Judge in this particular case may be fully satisfied in his own mind that he has done justice. It is, however, not enough to do justice. It should be done in such a way that other people are satisfied that justice has been done. Even a Court of Small Causes does not escape from this necessity.

3. I set aside the decree of the lower Court dated 3rd February 1928, and remit the suit to it for a proper trial and judgment.

4. Costs here and heretofore shall abide the result.

5. Proceedings in this Court were ex parte.

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