

In Re: Bhagwanti

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SooperKanoon Citation : sooperkanoon.com/471152

Court : Allahabad

Decided On : May-23-1916

Reported in : AIR1917All314; 39Ind.Cas.28

Judge : Sundar Lal, J.

Appellant : In Re: Bhagwanti

Judgement :

Sundar Lal, J.

1. I have considered the case and the ruling referred to. In my opinion the section refers to cases where a decree in favour of the respondents (i.e., all the respondents where there are more than one) is set aside, and the case is sent back 'for a second decision.' The proviso refers to cases where the decision in favour of the respondents is set aside qua a portion only of the subject-matter of the suit, but in either case the decree appealed against must be set aside qua all the respondents. Where the decree is left standing as to some of the respondents the decision so far as these respondents are concerned is left standing, and the appeal against them is dismissed. The Court in appeal in such cases does not set aside the decision of the case but affirms it, so far as these respondents are concerned- It sets aside only a part of the decision of the Court of first instance against some respondents only. The Court-fee paid by the appellants was necessary and required in respect of so much of the appeal as has been

dismissed. No additional fee was paid in respect of the appeal of the appellants in relation to the appeal against the other respondents which can be refunded now. This has been the practice of this Court since 28th April 1898, and I think I would not be right in disturbing the existing practice. I reject the application for the certificate for refund prayed for.

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