

Drig Pal Singh Vs. Kunjal

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Court : Allahabad

Decided On : Dec-15-1917

Reported in : AIR1918All222; 44Ind.Cas.689

Judge : Rafique, J.

Appellant : Drig Pal Singh

Respondent : Kunjal

Judgement :

Rafique, J.

1. This is an application in revision from the order of the Small Cause Court at Fatehpur returning the plaint to be presented to the proper Court, It appears that the plaintiff-applicant sued to recover mesne profits of a grove from which he said he had been wrongfully kept out of possession for three years by the opposite party. The learned Judge considered that the claim of the applicant fell under Article 31, Schedule II, of the Small Causes Courts Act and was not, therefore, cognizable by him. He accordingly returned the plaint for presentation to the proper Court. He is supported in the view of the law he has taken by a case of this Court, i. e. Sheo Bodh v. Surjan 19 Ind. Cas. 427 : 11 A.L.J. 238 as also by several oases of the Bombay and the Madras High Courts. For the applicant reliance is placed on the Full Bench ruling of Kunjo Behary Singh v. Madhub Chundra Ghose 23 C. 884 : 12 Ind. Dec. (N.S.) 587 (F.B). The view taken by the

Calcutta High Court seems to have been adopted by this Court about eighteen years ago in the case of Prasadi Lal v. Imdad Husen A.W.N. (1898) 10. The facts of that case are not quite the same as those of the present case. In the case of Prasadi Lal v. Imdad Husen A.W.N. (1898) 10 the plaintiff had sued for damages for wrongful eviction. In the present case the plaintiff is suing for the mesne profits of the property from which he was kept out of possession for three years. The case of Prasadi Lal v. Imdad Husen does not apply to the present case. The application fails and is dismissed with costs. Let the original plaint be returned.

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