

DeonaraIn Singh Vs. Guni Singh

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Court : Kolkata

Decided On : Feb-05-1907

Reported in : (1907)ILR34Cal400

Judge : Francis William Maclean, C.J. and ;Holmwood, J.

Appellant : DeonaraIn Singh

Respondent : Guni Singh

Judgement :

Francis William Maclean, C.J.

1. These are applications for certificates that the cases are fit for appeal to His Majesty in Council. There are a large number of suits. It appears that all these suits were tried together and were dealt with in one judgment, both in this Court and in the Court of the Subordinate Judge; and it also appears that, on an application for leave to appeal to His Majesty in Council, in case No. 33 of 1906, which was one of the cases heard with those now before us, a certificate has been granted. In that case the amount involved in dispute in both Courts was over Rs. 10,000, and, although the judgment was one of affirmance, a certificate was granted as the appeal involved substantial questions of law.

2. Now as regards the cases immediately before us, in two of them, viz, applications Nos. 30 and 31, the amount in dispute is over Rs. 10,000 and, as a certificate has been granted in the case I have just referred to, I think a certificate

must also be granted in each of these cases. That is not disputed. We have only to deal with the remaining cases. Now what do we find? We find that, although, if each case be taken separately the value is below Rs. 10,000, yet if taken collectively the aggregate reaches that amount and the cases are all dependent upon the same judgment. In the special circumstances, I think we may fairly say that the case falls within Section 596 of the Code of Civil Procedure, and that we should not be justified in preventing the parties from going up to the Privy Council. This view seems to be supported by the principles of the cases of *Khajah Ashanulia v. Karoonamoyi*, Chowdhry (1879) 4 C.L.R. 125, *Joogul Kishore v. Jotendro Mohun Tagore* (1882) I.L.R. 8 Calc. 210 and *Byjnaih v. Graham* (1885) I.L.R. 11 Calc. 740.

3. I feel fairly confident that, if we did not grant leave to the petitioner, the Judicial Committee would grant special leave: otherwise the result would be very anomalous.

4. I think therefore that a certificate must be granted in each of these cases.

Holmwood, J.

5. I agree.

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