

Harris Vs. Harris and

Harris Vs. Harris and

SooperKanoon Citation : sooperkanoon.com/852568

Court : Kolkata

Decided On : May-16-1876

Reported in : (1876)ILR1Cal286

Judge : Richard Garth, C.J. and ;Pontifex, J.

Appellant : Harris

Respondent : Harris And; Koylas Chunder Bandopadia

Judgement :

Richard Garth, C.J.

1. We are of opinion that both these suits have been correctly decided.
2. Mrs. Harris was entitled as against her husband to the property in question, and could sue him for it under Section 7, Act III of 1874.[1]
3. If the suit was to recover the articles themselves or their value, it was in form an action of detinue, not of trover; but, whatever the form may have been, we are of the same opinion as the Court of Common Pleas in Brinsmead v. Harrison L.R. 6 C.P. 584 that a judgment in such a suit, without satisfaction, does not change the property in the goods. The true explanation of the doctrine attributed to Jervis, C.J. in Buckland v. Johnson 15 C.B. 145 is this, that a man who has recovered the value of his goods in one action in the shape of damages, shall not be allowed to recover the goods themselves in another action; but this reason only applies when

the damages have been actually recovered.

[1] Section 7: A married woman may maintain a suit in her own name for the recovery of property of any description which, by force of the said Indian Succession Act, 1865, or of this Act, is her separate property; and she shall have, in her own name, the same remedies, both civil and criminal, against all persons, for the protection and security of such property, as if she were unmarried, and she shall be liable to such suits, processes, and orders in respect of such property as she would be liable to if she were unmarried.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com