

Buchu Lall Vs. Tulsi Panday

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Court : Kolkata

Decided On : Feb-28-1883

Reported in : (1883)ILR9Cal596

Judge : Richard Garth, C.J., ;Mitter, ;McDonell, ;Prinsep and ; Wilson, JJ.

Appellant : Buchu Lall

Respondent : Tulsi Panday

Judgement :

Richard Garth, C.J.

1. It seems to us that the view taken by the learned Judges who referred this case is correct. Prima facie in a suit of this kind/the appellant is entitled to a second appeal. The question is, whether that right is taken away by Section 102 of Beng. Act VIII of 1869? That section only applies where the amount sued for, or the value of the property claimed, does not exceed Rs. 100.

2. In this case there' is nothing to show that the value of the property claimed does not exceed Rs. 100; and unless that fact does appear, either from the finding of the lower Court, or elsewhere upon the proceedings, it seems to us that we have no right (more especially as we are only empowered here to deal with points of law) to draw any inference to that effect. We are, therefore, of opinion, that this Court has jurisdiction to entertain the appeal; and as the Division Bench has already decided that the lower Courts were wrong in decreeing the ejectment, we

think that the judgment should be modified accordingly, and that the defendant should be allowed his costs of appeal in the Courts, so far as they relate to that point.

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