

Wallis and ors. Vs. Taylor

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Court : Kolkata

Decided On : Apr-03-1886

Reported in : (1886)ILR13Cal37

Judge : W. Comer Petheram, C.J.,; Pigot and; Trevelyan, JJ.

Appellant : Wallis and ors.

Respondent : Taylor

Judgement :

Pigot, J.

1. It appears to us clear that the Small Cause Court has jurisdiction in such a case as the present.
2. By the Small Cause Court Act, jurisdiction is expressly conferred on Small Cause Courts, in cases the facts of which are such as those appearing here; and all that has to be considered in this case is, whether there is any provision in the Army Act of 1881 which takes away that jurisdiction.
3. We are of opinion that there is none. The doubt which has been felt in the matter arises from its being apparently supposed, that the words 'shall be cognizable' in Section 151 of the Army Act, mean 'shall be cognizable only.'

4. We are of opinion that there is nothing in that section of the Army Act, either in express words or by reasonable inference, to lead us to believe that it was the intention of the legislature in that section to affect the jurisdiction of the Small Cause Courts. We therefore answer the question referred to us in the affirmative.

5. We think it desirable to add that the discretion of the Small Cause Courts in giving leave to sue under Section 18 of Act XV of 1882 is one that ought to be only very cautiously exercised, in cases such as the one before us.

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