

Rahmatulla Vs. Mofizulla and ors.

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Court : Kolkata

Decided On : Feb-07-1913

Reported in : 28Ind.Cas.473

Judge : Harry Stephen and; D. Chatterjee, JJ.

Appellant : Rahmatulla

Respondent : Mofizulla and ors.

Judgement :

1. In this case the lower-Court has made an order under Section 9 of the Specific Relief Act, which is as follows:

The suit is, therefore, decreed with, costs-against the defendants Nos. 1 to 8 and it is ordered that the plaintiffs do recover khas possession of the land by removing the house built on it by the defendants if necessary.

2. We granted a Rule calling, upon the opposite party to show cause why the order complained of should not be set aside on the ground that it was beyond the jurisdiction of the Court. That portion of the order which allows the plaintiff to remove the house built on the land by the defendant, is beyond the jurisdiction of the Court under the section; for under that section the Court cannot do more than make an order with respect to possession of the land.

3. The Rule is, therefore, made absolute, the first part of the order remains unaffected and that part of the order which directs to remove the house, etc., is set aside.

4. The petitioner entitled to his costs, the hearing fee being assessed at one gold mohur.

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