

Luchman Lall Vs. Ram Lall

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Court : Kolkata

Decided On : Dec-14-1880

Reported in : (1881)ILR6Cal521

Judge : Mitter and ;Maclean, JJ.

Appellant : Luchman Lall

Respondent : Ram Lall

Judgement :

Mitter, J.

1. These are two cross-suits between persons who at one time were carrying on a partnership business in grain. The object of the suits was for adjustment of account, and for recovery of the money due to each other. The suits were instituted in the Court of the Munsif of Patna. The Munsif dismissed both these suits. There were two appeals; and the District Judge on appeal held, that the Munsif had no jurisdiction to entertain the suit, because, under Section 265 of the Contract Act, it was the District Judge's Court which had sole jurisdiction to grant relief in a case like this. We think that the District Judge is wrong in this view. It has been decided by the Madras High Court in the case of Javali Ramasami v. Sathambakam Theruvengadasami (I. L. R., 1 Mad., 340) that Section 265 is only an enabling section,-that is to say, it leaves to the option of the plaintiff either to institute proceedings under that section in the District Judge's Court, or to pursue

his ordinary civil remedy by instituting a regular suit in the Court which has jurisdiction having regard to the pecuniary value of the suit. We entirely concur in this view of the section, and think that it does not oust the Civil Court from its jurisdiction.

2. We, therefore, set aside the decisions of the lower Appellate Court, and remand the two cases to that Court for retrial. Costs to abide the result.

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