

Anup Manto Vs. Mita Dusadh and Others

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Court : Privy Council

Decided On : May-05-1933

Judge : Lords Blanesburgh, Macmillan & Sir George Lowndes

Appeal No. : Privy Council Appeal No.113 of 1929 (From Patna)

Appellant : Anup Manto

Respondent : Mita Dusadh and Others

Advocate for Pet/Ap. : Hyam, for Appellant; Abdul Majid, for Respondents. Solicitors for Appellant, Barrow, Rogers and Nevill; Solicitors for Respondents, Francis and Harker.

Judgement :

LORD BLANESBURGH:

In this matter their Lordships are of opinion that the objection taken has no foundation. By the report of the Munsif on a reference to him under O. 45, R.5, the value of the suit before the Board exceeds Rupees 10,000. Their Lordships are not going behind that report. Accordingly the objection on the score of value taken to the competency of the appeal fails and the appeal must now be set down for the purpose of being disposed of on the merits. But although delay has ensued and costs have been needlessly expended by this unavailing preliminary objection of the respondents their Lordships will not treat the case as one in which they ought to direct them to pay in any event the costs thrown away. The appellant is not free

from some responsibility in the matter. They desire to say however by way of warning in future cases that when a question of this kind has been raised in India, and when a report with reference to value has been made under the rule above referred to it is desirable that full information with reference to these proceedings be included in the record so that no such unfortunate misapprehension as has arisen in this case will in any future appeal be possible. The costs of both sides of this preliminary question will be costs in the appeal.

Order accordingly.

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