

(1927) 05 AHC CK 0020
In the Allahabad High Court

Bhagwandas Singh and Others

APPELLANT

Vs

Pinjra Pole Pashu Anathalaya

RESPONDENT

Date of Decision : 10-05-1927

Acts Referred:

Citation : (1927) 05 AHC CK 0020

Judgement

1. We are of opinion that this appeal must be dismissed. The decision appears to be based upon a finding that the plaintiff had a possessory title sufficient to oust a trespasser. In our view no point of law arises. A great deal has been argued before us, some of which we are unable to follow, suggesting that the body in question, namely, a society or committee with some charitable purpose in connexion with the protection of cows has either no legal existence, or no juristic personality or no existence in fact, or any right to sue, and reliance has been placed upon a decision reported as Mathura Kuer v. Dharam Samaj [1917] 14 A.L.J. 1038. The learned Subordinate Judge, in our opinion, correctly differentiated this case from that case. But some of the arguments before us were based upon certain dicta contained in that decision which appear to us to go too far. It is not the law and never has been the law that an unregistered society cannot hold property. It is not the law and never has been the law that it cannot sue or be sued. There are great difficulties about suing it because it is necessary to sue it as a joint body, and to implead all the members thereof. That was what was decided by the first Bench quite recently in Ram Sarup Vs. The Arya Samaj and Others, It was, there held that a previous judgment against a branch of the Arya Samaj was not binding upon the members because it was not a registered corporation and only its manager had been sued and the other members were neither impleaded nor represented in Court. But it is sufficient to point out that all the necessity for the legislation, for example in the Companies Act, making a Banking Society of more than 10 persons and a company carrying on business with profit of more than 20 members illegal and requiring in a suit by or against unregistered body that all the members shall be impleaded, would be totally superfluous if there were any truth in the suggestion that they had no

legal existence at all and were incapable of holding property.

2. The appeal must be dismissed with costs.