

(1887) 03 CAL CK 0002
In the Calcutta High Court

Cumar Ganoda Kant Roy Bahadur and Others

APPELLANT

Vs

Subodini Debi

RESPONDENT

Date of Decision : 02-03-1887

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 27, 32

Citation : (1887) ILR (Cal) 400

Hon'ble Judges : Wilson, J; O'Kinealy, J

Bench : Division Bench

Judgement

1. It appears that this suit which was one for rent was originally brought in the name of Mr. Stevens as the authorized manager of Bajah Ganoda Kant Roy Bahadur and others. At a later stage in the suit an amendment was made by striking out Mr. Stevens and substituting his employers as plaintiffs in the case. We must presume that to have been done on sufficient materials under the express provisions of Section 27 of the Code of Civil Procedure, under which section, if a suit is brought in the name of the wrong person as plaintiff, the name of the right person may be substituted, provided the conditions of the section are complied with. It is said, however, that that change was made at such a time that, if the suit had been then brought for the first time in the names of the proper persons, it would have been barred by limitation, and the suggestion is that therefore this suit is barred. The answer to that is that this suit is the original suit and was brought in time; the change of parties as plaintiffs does not affect the question of limitation. There is a difference between substituting a new person as plaintiff u/s 27 and the addition of a new person as a defendant to a suit. Section 32 expressly says, speaking of defendants, that the proceedings against them shall, for the purposes of the Limitation Act, be deemed to have begun only on the service of summons, that is the summons servable on the added defendants. There is no such provision as regards persons who are made plaintiffs u/s 27. This point therefore fails.

2. We dismiss this appeal with costs.