

(1895) 08 CAL CK 0004
In the Calcutta High Court

Dina Nath Patak

APPELLANT

Vs

Ram Lal Patak

RESPONDENT

Date of Decision : 27-08-1895

Acts Referred:

Citation : (1896) ILR (Cal) 200

Hon'ble Judges : Stevens, J;Pigot, J

Bench : Division Bench

Judgement

Pigot, J.—We think the decision of the Judicial Commissioner must be affirmed. The case cannot be distinguished, in our opinion, from the case of Hem Chunder Ghose v. Radha Pershad Paleet 23 W.R. 440 which was decided by Officiating Chief Justice Macpherson and Mr. Justice Morris, in which the correctness of such a decree as is made in this case, under circumstances practically the same as those in the present case, is distinctly affirmed. It is true that in the case of Jubraj Roy v. Mackenzie 5 C.L.R. 231, Chief Justice Garth expresses some dissatisfaction with the decisions in the cases of Mahomed Rasid Khan Chowdhry v. Jadoo Mirdha 20 W.R. 401 and Hem Chunder Ghose v. Radha Pershad Paleet 23 W.R. 440, which we have just mentioned; but at the same time the learned Chief Justice says that the Court is bound by them so long as they are not touched by a Full Bench, and Mr. Justice Prinsep, who took part in the decision of that case, says that he concurs with those decisions.

2. We think that the decision of the Judicial Commissioner was right, and the appeal must be dismissed with costs.