

(1921) 01 AHC CK 0006
In the Allahabad High Court

Firm Basdeo Ram Sarup and Others

APPELLANT

Vs

Firm Seth Mulchand Nemichand

RESPONDENT

Date of Decision : 24-01-1921

Acts Referred:

Presidency Small Cause Courts Act, 1882 — Section 17

Presidency Small Cause Courts Act, 1882 — Section 17

Presidency Small Cause Courts Act, 1882 — Section 17

Citation : AIR 1921 All 144 : 62 Ind. Cas. 689

Hon'ble Judges : Tudball, J

Bench : Single Bench

Judgement

1. This is an application in revision u/s 25 of the Small Cause Courts Act. The facts are as follows:--The plaintiff-opposite party brought a suit against the applicants to recover a certain sum of money. In the plaint, as it stood first, that sum was Rs. 285-12-0. He also asked for interest pendente lite and subsequent to the decree. The decree was passed ex parte and ran as follows:

Date ... 20th August 1919. In whose favour ... Plaintiff. Against whom ... Defendants. Amount decreed ... Rs. 285-12-0. Costs ... Rs. 33-14-0. By whom payable ... Defendants. 2. Under these the words written were--"The claim of the plaintiff together with costs and future interest is decreed."

3. Now after the institution of the suit the plaintiff amended his plaint and his claim was actually for Rs. 293-8-3 and Rs. 43 4 0 costs. The decree was passed on the 20th of August 1919. On the 26th of August, six days afterwards, the defendants deposited Rs. 320 u/s 17 of the Act and asked for a re hearing. Their application for re hearing has been rejected on the ground that the deposit was insufficient because it did not include a sufficient amount to cover the interest on the claim from the date of the suit up to the date of the decree. The total figures in the decree are 319-10 0. They deposited Rs. 320, one anna more than what was necessary to cover the interest for six days on Rs. 319. The lower Court has held that the words "D wi muddai mai kharcha wa sud ainda degree ho" ought to

have put the defendants on their guard and made them deposit a sufficient amount to cover the interest from the date of the suit up to the date of the decree. The Court below has taken a very technical view of the whole matter, probably because the learned gentleman who represented the defendants in the Court below was a little bit too insistent on his view of the case and lost sight considerably of his clients' interests. If the Court below did not wish to mislead any person, it ought to have put into its decree correct figures. It is all very well to say that the plaintiff's claim is decreed in full and then to add, under or above that statement, details of figures which are incorrect and then to ask the defendants to make a calculation for themselves to see whether those figures were correct or not. It is the duty of the Court to enter correct figures in its decree and if a defendant deposits the amount stated therein, u/s 17 of the Small Cause Courts Act he must be deemed to have complied with the law. The decree drawn up by the Court below was carelessly drawn up. It was incorrect in figures as well as in details, and it is impossible to say on the face of that decree that the defendants had not complied with the law. As a matter of fact the decree has since been amended on the 20th of December 1919 and the figures have been altered. I, therefore, allow the revision and set aside the order of the Court below. The defendants will be allowed two weeks from the date of the receipt of the record by the Court below to deposit a sum of Rs. 336-12-3 plus interest from the 23rd of June 1919 to the 26th of August 1919. Intimation of the receipt of the record shall be given to the Pleader for the defendants within twenty-four hours of its arrival. Costs of this application and all costs incurred by either party up to the present (Sick)noment will be costs in the cause and will abide the result. Any sum already deposited will go to make up the sum of Rs. 336-12 3.