
(1919) 05 CAL CK 0071
In the Calcutta High Court

Gobindu Das Nath and Others

APPELLANT

Vs

Sreemati Nitya Kali Dasi and Others

RESPONDENT

Date of Decision : 08-05-1919

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : AIR 1919 Cal 840(2) : 51 Ind. Cas. 581

Hon'ble Judges : Walmsley, J;Shamsul Huda, J

Bench : Division Bench

Judgement

Walmsley, J.—This is a Rule calling on the opposite party to show cause why the order requiring the plaintiff to pay the deficit Court fee of Rs. 2,980 should not be set aside. It appears to me that the plaintiff has mistaken his remedy, or rather he has another remedy easily available to him and on that account we ought not to interfere u/s 115, Civil Procedure Code. If he fails to deposit the sum which he has been ordered to pay, his suit will be dismissed and then he will have a right of appeal. That being so, I do not think we ought to interfere with the order passed by the Court below in our revisional jurisdiction. The Rule is, therefore, discharged with costs, three gold mohurs, to be divided. between the defendant No. 1 and the defendant No. 2. Let the record be sent down without delay.

Shamsul Huda, J.

3. I agree.