

**(1929) 06 PAT CK 0029**  
**In the Patna High Court**

Guju Mahto and Others

APPELLANT

Vs

Raghu Singh and Others

RESPONDENT

---

**Date of Decision :** 13-06-1929

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 110

**Citation :** AIR 1929 Patna 547

---

**Judgement**

1. The defendants first party apply for a certification u/s 110, Civil P.C., for the purpose of appealing to His Majesty in Council from a decree of this Court which reversed the judgment of the Court of first instance in a suit instituted by the plaintiffs for recovery of possession of certain properties and for mesne profits.

2. The judgment being one of reversal, the only question for determination is whether the value of the subject-matter of the suit in the Court of first instance is Rs. 10,000 or upwards and the amount or value of the subject-matter in dispute on appeal to His Majesty in Council is the same sum or upwards. The plaintiffs valued their suit at Rs. 6,250, Rs. 5,000 as the value of the immovable properties and Rs. 1,250 as mesne profits up to the institution of the suit. The suit was instituted on 30th January 1923. The plaintiffs also claimed mesne profits from the date "of the institution of the suit until delivery of possession to them. Following the practice of the Calcutta High Court, this Court has laid down that in ascertaining the amount or value of the subject-matter of a suit, in the Court of first instance, for the purposes of Section 110 of the Code of 1908 where the suit involves a claim for mesne profits, the mesne profits, which might be awarded by the Court, whether they had actually accrued at the date when the suit was instituted or whether they were future mesne profits, should be taken into consideration. If the Court of first instance decided the case in favour of the plaintiffs that Court would be entitled, in addition to passing a decree for the recovery of the properties and for mesne profits which had accrued during the period prior to the institution of the suit, to direct an enquiry as to the mesne profits from the institution of the suit, either until the delivery of possession to the decree-holder or the relinquishment of possession by the judgment-debtor or

the expiration of three years from the date of the decree whichever event falls first.

3. As I have said, the suit was instituted on 30th January 1923, and the decree of the Court of first instance was pronounced on 25th February 1927. If the plaintiffs had succeeded in that Court they would have been entitled to recover not only the mesne profits which had accrued during the period prior to the institution of the suit, but also the mesne profits up to 25th February 1927, that is to say, for a period of four years from the date of the institution of the suit. It is clear that, calculated on this basis, the subject-matter of the suit in the Court of first instance exceeded the value of Rs. 10,000.

4. It is not disputed that so far as the amount or value of the subject-matter in dispute on appeal to His Majesty in Council is concerned it exceeds the value of Rs. 10,000. In our opinion, therefore, the case fulfils the requirements of Section 110 of the Code and the appellants are entitled to the usual certificate enabling them to appeal to His Majesty in Council.