

(1934) 09 PAT CK 0004
In the Patna High Court
Case No : Civil Revn. Appeal No. 1 of 1934

Jadunath Sahu

APPELLANT

Vs

Nilamani Sahu

RESPONDENT

Date of Decision : 25-09-1934

Acts Referred:

Citation : (1934) 09 PAT CK 0004

Final Decision : Dismissed

Judgement

Varma, J.—The plaintiff is the petitioner in this case. He brought a suit to realize a sum of Rs. 32 which was according to him taken by one Jagannath alias Jagu Sahu, the deceased brother of the defendant in the case. The suit was dismissed by the learned Small Cause Court Judge on 9th September 1933, on the ground that the defendant, who happened to be the brother of the executants of the hand-note, was not liable as legal necessity was not proved. The recital in the handout is a course there showing that it was for the purpose of sanctifying a newly built house that the money was borrowed, but when the plaintiff wanted to make not the executants but his brother liable for the debt, it was for him to prove that it was for family necessity, otherwise the defendant was not liable at all. The trial Court has found that that element of the case was not proved and has dismissed the suit. I see nothing wrong with the order of the learned Judge. The application is dismissed but without costs.