
(1915) 02 AHC CK 0045
In the Allahabad High Court

Kedar Rai and Another

APPELLANT

Vs

Sheopal Rai and Another

RESPONDENT

Date of Decision : 19-02-1915

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 32 Rule 4
Civil Procedure Code, 1908 (CPC) — Order 32 Rule 4
Civil Procedure Code, 1908 (CPC) — Order 32 Rule 4

Citation : AIR 1915 All 211 : 28 Ind. Cas. 852

Hon'ble Judges : Rafique, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rafique, J.—In Second Appeal No. 367 of 1914 one of the respondents is a minor and he has been served at the instance of the appellant under the guardianship of the Central Nazir of the Judge's Court, Benares. The Nassir has made an application under Order XXXII, Rule 4, Civil Procedure Code, praying this Court to order payment to him of a sum of money sufficient to enable him to oppose the appeal in this Court. The learned Vakil for the appellant says that ho does not wish to retain the name of the minor among the respondents any longer, as he finds that the minor is not a necessary party. He also objects to any order being made by this Court directing any sum of money to be paid to the Nazir which the latter may have incurred up to this time in connection with the appeal. The appellant is at liberty to release any of the respondents. But I do not think that he can evade payment of actual out-of-pocket costs which the Nazir has incurred in connection with the present appeal. Mr. Harnandan Prasad who appears for the Nazir says that Rs. 28 have been spent by the Nazir up to this time. The details of the expenditure are as follows:

Rs. Vakalatnama 2 Application 2 Process fee 3
Another application 2 Process fee 3 Mr. Harnandan Prasad's
fee ... 16 2. I think that as the Nazir has already spent a sum of Rs. 28 on

account of the appellant having made the minor a respondent to the appeal, the appellant must pay that sum to the Nazir. It therefore, direct the appellant to pay the sum of Rs. 28 to the Nazir through his "Vakil Mr. Harnandan Prasad before the hearing of the appeal. Order as to the release of the minor will be made at the hearing of the appeal to the effect that the appeal stands dismissed as against him. In case the appellant does not pay the said money, it will be recovered as costs in the case.