
(1950) 03 CAL CK 0026
In the Calcutta High Court
Case No : F.C.A. No. 18 of 1949

Kumar Purnendu Nath Tgore and Others APPELLANT
Vs
Sree Sree Radhakanta Jew (represented by) Sm. Sulajini RESPONDENT
Debi and Others

Date of Decision : 14-03-1950

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 45 Rule 7

Citation : 54 CWN 479

Hon'ble Judges : Harries, C.J.; Banerjee, J

Bench : Division Bench

Advocate : Nirmal Chandra Chakravarty with Kshetra Mohan Chatterjee, for the Appellant; Benoy Behari Sen, for the Respondent

Judgement

Harries, C.J.—The proposed Appellants to the Supreme Court in this appeal applied to this Court for an order permitting them to comply with Order 45, Rule 7 of the CPC by giving security in immovable property for Rs.4,000. No application had been made at the time of granting the certificate for leave to deposit such security. But this Court following a Bombay decision came to the conclusion that leave could be given to deposit security in immovable property provided that such was done within the time prescribed by Order 45, Rule 7.

2. The security was tendered within the time, but the learned Registrar of the Appellate Side has pointed out that what has been tendered is no security at all. The security bond is not in the form required in this Court and in any event it is unregistered and not properly stamped as a mortgage bond. The title deed was also deposited, but that is worth nothing without a proper security bond. The learned Registrar refused to accept the security and the time for depositing the security as laid down in Order 45, Rule 7 has now expired. As I have said on previous cases this Court has consistently held that it has no jurisdiction to extend the time for depositing the necessary security under Order 45, Rule 7 and therefore the Appellants cannot be given time to tender proper security in

immovable property.

3. The security tendered was property rejected by the learned Registrar and in accordance with the construction placed by this Court on Rule 3 of Order 12 of the Supreme Court Rules, 1950, the certificate granting leave to appeal must be cancelled.

4. The Respondents are entitled to the costs of these proceedings - the hearing-fee of which is assessed at two gold mohurs.

Banerjee, J.

5. I agree.