
(1919) 11 AHC CK 0001
In the Allahabad High Court

Mizaji Lal

APPELLANT

Vs

Partab Kuar

RESPONDENT

Date of Decision : 20-11-1919

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 25

Citation : 58 Ind. Cas. 546

Hon'ble Judges : Lindsay, J

Bench : Single Bench

Judgement

Lindsay, J.—This is an application u/s 25 of the Provincial Small Cause Courts Act (Act No. IX of 1887). The question for decision is whether or not the suit was cognisable by a Court of Small Causes. The lower Court held that it was so cognisable. It is contended here in revision that the suit was not entertainable. It seems that an award had been made out of Court between the parties under which a certain sum of money had been declared payable to the plaintiff. The plaintiff brought this suit accordingly to recover the amount so named. Mr. Narain Prasad has referred me to Article 24 of the Second Schedule to the Provincial Small Cause Courts Act (Act No. IX of 1887). According to that Article a suit to contest an award is not tribal by a Court of Small Causes. The answer to this argument is that the present suit was not a suit to contest an award. On the contrary it was a suit to enforce an award by asking for delivery of the money which was payable under the award.

2. The learned Counsel has referred me to the decision in Madho Prasad v. Lalta Prasad A.W.N. (1881) 159. There the suit was of a nature similar to that of the present suit and the Court held that the suit was not cognisable by the Court of Small Causes. It is apparent, however, that this decision was delivered with reference to the language of the old Small Cause Courts Act (Act No. XI of 1865). A reference to Section 6 of this old Act shows that certain suits were declared to be cognisable by Courts of Small Causes and consequently by implication all other suits were excluded from Small Cause Court jurisdiction. It is

clear that under the old Act the present suit would not have been entertainable in a Court of Small Causes, but the scheme of the Act has been altered and I am unable to find any provision in the Second Schedule to the present Act (Act No. IX of 1887) which would indicate that a suit for money due under an award is not a suit which is cognisable by a Court of Small Causes. In my opinion it was so cognisable and I think the decision of the Judge of the Court below was correct. I dismiss the application. I make no order as to costs as the proceedings have been ex parte.