

(1887) 06 CAL CK 0011
In the Calcutta High Court

Neckram Dobay

APPELLANT

Vs

The Bank of Bengal

RESPONDENT

Date of Decision : 22-06-1887

Acts Referred:

Citation : (1887) ILR (Cal) 703

Hon'ble Judges : Macpherson, J

Bench : Single Bench

Judgement

Macpherson, J.—I think the plaintiff is not bound to answer this interrogatory.

2. The plaint alleges that the defendant improperly and without notice, and in violation of an agreement, sold some Government promissory notes which had been deposited as security for certain loans.

3. The defence is a denial of the alleged agreement and an assertion that the notes were sold after due notice and on failure of the plaintiff to comply with the terms on which the loans were made.

4. The parties are therefore at issue as to the plaintiff being in a position to recover any damages at all.

5. If the interrogatory is intended to elicit the principle on which the damages are estimated, the defendant is not entitled to discovery on the point. This is a matter relating exclusively to the plaintiff's case, and, if the wrongful acts are established, as to the way in which he intends to shape it as regards the assessment of the damages; this the plaintiff is not bound to disclose beforehand. If the interrogatory is intended to elicit an account of the transactions between the parties, it is unnecessary, as the transactions are all within the knowledge of the defendant Bank, which sold the notes which were deposited with them. But, even if it did not, the enquiry is premature as the question whether there has been any wrongful act committed and whether the plaintiff is entitled to any damages must be first determined. The principle deducible from the English cases cited seems to be that, where the question is

simply as to the amount of damages to be awarded and the defendant wishes to satisfy the demand, he is entitled by means of interrogatories to elicit all the information which will enable him to do so. If there is a contest as to the right to damages it is not very clear whether interrogatories directed to the amount of such damages would be allowed. In the present case the points on which the claim is based are all known to the defendant Bank, and I think the defendant is not bound to furnish any other information than he has given. The application is refused with costs.