

**(1935) 12 PAT CK 0030**

**In the Patna High Court**

Parmeshwar Dayal Singh and Others

APPELLANT

Vs

Brindaban Chandra Sarkar and Others

RESPONDENT

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**Date of Decision :** 12-12-1935

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 111

**Citation :** AIR 1936 Patna 106

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## **Judgement**

1. This is an application by the plaintiff to appeal to His Majesty in Council from a decision of a Judge of this Court sitting singly. Mr. B.C. Sinha, appearing on behalf of the plaintiff-applicants, advanced certain arguments relating to the merits of the appeal--assuming for the moment that the applicants had a right to make such an application for leave. But in our judgment those questions cannot possibly arise in this case for this reason. The decision of this Court was pronounced by Varma, J. An application was made by the defeated party, being the plaintiffs, for leave to appeal to a Division Bench of this Court. That application was rejected. It remains therefore that the decision is a decision of a Single Judge of this Court; and, in our opinion, there can be no doubt whatever that Section 111, Civil P.C., prohibits an appeal to His Majesty in those circumstances. Section 111 provides:

Notwithstanding any thing contained in Section 109 (and Section 109 is a general section giving right to appeal to His Majesty) no appeal shall lie to His Majesty in Council

(a) from a decree or order of one Judge of a High Court established under the Indian High Courts Act, 1861, etc.

2. That prohibition is unconditional. The application for leave to appeal to His Majesty in Council is rejected with costs: hearing fee one gold mohur.