
(1933) 08 AHC CK 0086
In the Allahabad High Court
Case No : Civil Rev. No. 144 of 1933

Raghunath Prasad Singh

APPELLANT

Vs

Raja Kashi Nath Bahadur Pal

RESPONDENT

Date of Decision : 16-08-1933

Acts Referred:

Citation : (1933) 08 AHC CK 0086

Final Decision : Dismissed

Judgement

Mukerji and Bennet, JJ.—This application in revision is concluded by a decision of a division bench of this Court, namely, L. Bal Krishna and Others Vs. Ram Kishun and Others [In this case it was observed by Mukerji J., as follows: "It appears to me that when the learned Judge in the court below decided that he would proceed with the suit, he did not decide a "case" within the meaning of Section 115, CPC In the Full Bench case of Buddhu Lal v. Mewa Ram 43 All. 564, the majority of the learned Judges held that a decision of one of the issues in a suit could not be taken to be the decision of a "case" within the meaning of Section 115, and that a revision would not lie to contest that decision In this case, although an issue was actually framed on the question of the applicability or otherwise of Section 10 Code of Civil Procedure, strictly speaking, no such issue arose. The question before the court was whether it should proceed with the trial or should stay its hand. A decision of this question could only quicken or delay the disposal of the suit, but, otherwise, it had no effect on the merits of the case. Strictly speaking, therefore, the question whether the trial of a particular suit or the trial of a particular issue should go on or should be stayed is no question on the merits of the case, and the decision of that question cannot be said to be a decision of an issue in the case. The whole thing relates to a matter of procedure."—Ed.]. The Court below having decided that Section 10, Code of Civil Procedure, did not apply, it did apply its mind to the question raised before it, and even if its decision be wrong on the merits we cannot interfere at this stage because no case has been decided within Section 115, Code of Civil Procedure. The application is dismissed with costs.