

(1936) 01 BOM CK 0006
In the Bombay High Court

Raja Sarda Mahesh Prasad Singh

APPELLANT

Vs

Badri Lal Sahu

RESPONDENT

Date of Decision : 23-01-1936

Acts Referred:

Citation : (1936) 38 BOMLR 484

Hon'ble Judges : John Wallis, J;George Rankin, J;Alness, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

John Wallis, J.—This is an appeal by special leave from a judgment and decree of the Court of the Board of Revenue for the United Provinces of Agra and Oudh confirming the appellate judgment and decree of the Court of the Commissioner of the Benares Division, which had decreed the plaintiffs' suit reversing the judgment of the Court of the Collector of Mirzapur which had dismissed the suit.

2. The Robertsgang tahsil of the Mirzapur District in which the property is situated is a scheduled district under the Scheduled Districts Act, 1874, and, under the rules for the administration of civil justice made pursuant to that Act, the Court of the Collector has power to try and determine suits of every description and is to be considered as the District and principal Court of original jurisdiction, and the Court of the Commissioner of Benares as the highest Court of Appeal. It is, however, provided by Rule 9 as follows :-

It shall be in the power of the Local Government to refer to the Board of Revenue any case in which the Commissioner, on appeal from the Collector, may have reversed the decision of the lower Court, and the orders of the Board in such case shall be final.

3. In their Lordships' opinion the effect of this rule is to enable the Local Government to constitute pro hoc vice the Board of Revenue a Court of second appeal with full appellate jurisdiction. A preliminary objection has been taken that the appeal is incompetent owing to the provision in the rules that the order

of the Board is to be final. As to this, it is sufficient to say that these rules do not affect His Majesty's prerogative to grant special leave to appeal, which has been granted in this case.

4. [The rest of the judgment is not material for the purposes of this report.]