

(1907) 01 AHC CK 0018
In the Allahabad High Court

Ram Narain Dube

APPELLANT

Vs

The Secretary of State for India in Council

RESPONDENT

Date of Decision : 09-01-1907

Acts Referred:

Citation : (1907) ILR (All) 277

Hon'ble Judges : Richards, J;George Knox, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

George Knox and Richards, JJ.—Ram Narain Dube, the petitioner in this case, brought a suit against the Secretary of State for India in Council in the Court of the Judge of Small Causes at Benares. It appears that one Musammat Janki was the tenant of Ram Narain. Janki died intestate, so it is alleged, leaving personal property. No claimant to the property having come forward, the District Judge of Benares, under the authority vested in him by Section 7 of Regulation V of 1799, took temporary care of the property. Janki was the tenant of Ram Narain Dube, and at the time she died was, according to Ram Narain Dube, in debt to him for certain arrears of house rent. It is for the recovery of this house rent that a suit was instituted in the Court of Small Causes. The suit was defended on the ground that the Secretary of State was not the owner of the property at the time the suit was brought and was not in possession of the property. The learned Judge held that until the period prescribed by the Regulation expired, the property did not vest in the Secretary of State and he could not be held liable for any debt. He accordingly dismissed the suit. In revision it is here contended that as under the Hindu Law upon the failure of heirs the property of a deceased person immediately escheats to the Crown, the Secretary of State must be taken to be in possession of the property. In our opinion the learned Judge is right, the liability of the Secretary of State does not arise until he has taken possession of the property. This date has not been reached. We do not understand why Ram Narain Dube did not as creditor apply to the District Judge for letters of

administration. Had he done so, he could have paid out of the assets the debt due to himself and he would not have been obliged to wait for the expiry of the period prescribed for giving notice to the Secretary of State of his intention to sue. This application is dismissed with costs.