

(1920) 06 CAL CK 0039
In the Calcutta High Court

Ram Sundar Das and on his death his Heir and Legal
representative Rakesh Chandra Das by his Mother and Next
friend Bilash Munjari Dasi

APPELLANT

Vs

Shajidur Rahaman and Another

RESPONDENT

Date of Decision : 09-06-1920

Acts Referred:

Citation : 60 Ind. Cas. 460

Hon'ble Judges : Syed Shamsul Huda, J;Panton, J

Bench : Division Bench

Judgement

1. This appeal is concluded by the findings of fact arrived at by the lower Appellate Court, It has been urged that the first Court had passed a decree against all the three defendants, and the appeal having been filed only by one of them, namely, defendant No. 3, the decree could not have been reversed as regards the defendants who did not appeal, and that, so far as those defendants were concerned, the decree should have been allowed to stand. We do not think that this contention is well-founded. The language of Order XLI, Rule 4 is sufficiently wide to give jurisdiction to the Appellate Court to vary the decree in favour of all the defendants, the decree against them proceeding on a common ground.

2. The appeal is accordingly dismissed with costs.