

(1893) 02 CAL CK 0003
In the Calcutta High Court

Ramdeo and Another

APPELLANT

Vs

Cassim Mamoojee

RESPONDENT

Date of Decision : 16-02-1893

Acts Referred:

Citation : (1894) ILR (Cal) 173

Hon'ble Judges : W. Comer Petheram, C.J;O'Kinealy, J;Norris, J

Bench : Full Bench

Judgement

W. Comer Petheram, C.J.—The question which we are asked in this case is, whether or not the plaintiffs' first refusal of the delivery order and their letter of the 5th September 1891 entitled the defendant to rescind the contract. In my opinion the answer to that question is, that it did not so entitle him. The facts of the case are fully set out in the reference of the learned Small Cause Court Judge; and, therefore, it is not necessary to recapitulate them here. It is sufficient to say that I agree with the Small Cause Court Judge in thinking that upon this contract the defendant had no right to call upon the plaintiffs to accept the delivery order of the whole of the goods at that time. In addition to that, I do not think that the letter of the plaintiffs was such repudiation of the contract as to entitle the other party to say that it was at an end. I think the Small Cause Court Judge was right in the view he has taken of the case. This answer will be sent to the Small Cause Court.