

(1933) 10 PAT CK 0033

In the Patna High Court

Case No : Civil Revn. Petn. No. 335 of 1933

Rameswar Lal Jhunjhunwala and others

APPELLANT

Vs

Sidique Mian

RESPONDENT

Date of Decision : 26-10-1933

Acts Referred:

Citation : (1933) 10 PAT CK 0033

Judgement

Macpherson, J.—This is an application under S. 25 of the Small Cause Courts Act. The suit was by the trustees of an insolvent firm who claimed that a balance of Rs. 53-11-6 plus interest was due to the firm from the defendant. On behalf of the plaintiffs one of the trustees of the firm gave his testimony and he proved the entry Ex 1 in the khatabahi of the firm. The only other witness proved a deed which is not relevant for our present purpose. The defendant denied that he had taken cloths from the plaintiff or that anything was due from him. The court held that the oral statement of the plaintiffs chief witness and the entries in the khatabahi were not reliable and answered in the negative the point for determination, namely whether the defendants had taken cloths from the plaintiff-firm and accordingly dismissed the suit. The "grounds" taken in the application are merely that the petitioners having based their claim on the khatabahi and the proprietor of the firm having pledged his oath in support of the claim and there being simply a denial of the transaction by the defendant, the court erred in dismissing the suit without assigning any reason for the rejection of the khatabahi and that there

being uncorroborated testimony of the defendant while the plaintiffs supported their case by the bahi khata the Court ought to have decreed the suit.

2. These grounds are obviously untenable. The question before the court was purely one of fact and it was unable to believe the evidence adduced by the party which had to establish the necessary fact. Moreover, though not bound to give reasons, it has done so, and has further pointed out with regard to the khatabahi that only the balance of the previous year was shown in it.

3. Mr. L.K. Jha, however, goes on to urge that plaintiffs filed either documents along with the plaint which would have supported the khatabahi. These were not considered because "thinking the matter a small one" plaintiffs failed to adduce them in evidence and without them the khatabahi was not found convincing. He then proceeds to deal with other matters which were not in his "grounds", He contends that the decree is not according to law because reasons have not been given for the decision. The contention fails for two reasons: first, because reasons have been given and secondly, because the law does not ordain that the court should set out reasons for its decision. He urges further that the required "memorandum of the substance of the depositions" was not recorded. But there is no affidavit nor any suggestion of earlier date in this record, and though the record is brief, it cannot be said that it does not adequately represent the proceedings. It is true that no cross-examination of plaintiffs' witness is recorded impugning the khatabahi but in his written statement and in his evidence the defendant denied the whole transaction. The fact is that the petitioners resent the criticism of their "khatabahi. They are themselves to blame for not having taken the trouble to support it by the other documents which were available. It is not shown that the decree is not according to law and the rule is discharged with costs: pleader's fee sixteen rupees.