

(1912) 11 CAL CK 0010
In the Calcutta High Court

Rodricks

APPELLANT

Vs

Secretary of State For India

RESPONDENT

Date of Decision : 27-11-1912

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 1

Citation : (1913) ILR (Cal) 308

Hon'ble Judges : K.C.I.E., C.J;Lawrence H. Jenkins, J;Harington, J

Bench : Full Bench

Judgement

Jenkins, C.J.—This appeal arises out of a suit brought against the Secretary of State for India in Council, and the alleged cause of action is malicious prosecution. The suit has been dismissed by Mr. Justice Chaudhuri on the ground that the Court had no jurisdiction to entertain it. The plaintiff has appealed from this judgment maintaining that there is this jurisdiction. Under Order VII Rule 1 of the CPC the plaintiff is required, among other things, to show the facts constituting the cause of action and when it arose, and also the facts showing that the Court has jurisdiction. There is no allegation in the plaint that satisfies this requirement, and the written statement takes the objection that "on the face of the plaint it appears that the alleged cause of action arose wholly out of the ordinary original civil jurisdiction of this Court, and the Court has no jurisdiction to entertain this suit." Now, it is admitted that no part of the cause of action arose within the local jurisdiction of this Court: but it is contended that the Secretary of State for India in Council is a person who dwells or carries on business or personally works for gain within the local limits of Calcutta; and it is on that ground and on that ground alone that we are asked to hold that there is jurisdiction. No doubt, this argument met with some favour in the Court of first instance, and the appellant suggests before us that he was encouraged by the view of the learned Judge to prefer this appeal. But in fact this is a point which was decided adversely to him as far back as 1886, and it has not been suggested that from that date to this, the decision to which I refer has ever been questioned or doubted: *Doya Narain Tewary v. The Secretary of State for India in*

Council (1) (1886) I. L. E. 14 Calc. 256. It was the decision not of a single Judge but of a Bench of two Judges, and I think it would be wrong for us not to follow that decision. I regard it as important that matters of this kind should have all the, certainty possible and that the Court should not lightly disregard a decision definitely settling a question of jurisdiction such as that which arises in this case. If the decision is wrong then it must be for a higher tribunal to correct it. For my own part, I prefer to follow it as being a decision of a Bench of two Judges which has long been accepted as a governing authority.

2. We, therefore, hold that there is no jurisdiction and e dismiss this appeal with costs.

Harington, J.

3. I agree.