

(1922) 03 CAL CK 0048
In the Calcutta High Court

Sued Mahammad Hossain Chaudhary and Another	APPELLANT
Vs	
RABIA KHATUN alias Pori Banu Bibi	RESPONDENT

Date of Decision : 22-03-1922

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 31

Citation : AIR 1923 Cal 163 : 68 Ind. Cas. 467

Hon'ble Judges : John Woodroffe, J; Ghose, J

Bench : Division Bench

Judgement

1. In this suit the arguments, we are told, lasted for some three days in the First Court. It was dismissed as against defendant No. 2 and a decree was made in favour of the plaintiff against defendant No. 1 for the sum mentioned in the Subordinate Judge's judgment. Then it went on appeal to the District Judge and in his Court the arguments, we are told, lasted for four days. The District Judge did not deliver his judgment forthwith but we are told that he reserved his judgment and had it under consideration for some time. In the result he came to the conclusion that the decree of the First Court should stand. There fore, we have before us as a case of judgment it of concurrence as regards the fact.

2. It has been argued before us here (and this is the only point, of law in this appeal) that the judgment of the Court, below is not in accord with the provisions of Order XLI, Rule 31 of the CPC inasmuch as the Court did not assign any reason for its decision. That the learned Judge appreciated the main facts in this case is shown by the fact that the main points have been decided, namely, those necessary in order to arrive at a decision. They appear from the judgment itself. He has considered the main facts and as regards these he says concerning the kabin Kistibandi: "I entirely agree, with the finding of the lower Court that it was the result of conclusion (collusion?)". The judgment then proceeds to the other main points in the case touching the genuineness and validity of azir Hossain's Will and of the connected Nadavipatra and Muktipatra. As regards this the learned Judge says: "This has been very fully and carefully discussed by the

learned Subordinate Judge and I need only say that I entirely agree with his findings." I think it would be putting a reasonable interpretation on what the judge has said if we suppose that he not only affirms the findings of the First Court but adopts at least in the main the groundson which those findings have been arrived at by the First Court. Whether or not a judgment is according to law must depend upon the facts and circumstances of each case. There is firstly that difference which exists between cases of affirmance of judgments and cases of reversal of judgments of the First Court. Then there is to be Considered nature of the judgment affirmed, its fullness and accuracy end so forth. In the present case the First Court, as appears from is judgments, hat felly discussed all the matters which ware sliced before is and, therefore, we are unable to say that the lower Appellate Court's judgment is contrary to law, because, is gave its judgments in the short form in which it is now before us. There is no other ground in this appeal.

3. The appeal is accordingly dismissed with casts.