

(1901) 02 CAL CK 0004
In the Calcutta High Court

Sukalbutti Mandrani

APPELLANT

Vs

Babulal Mandar and Another

RESPONDENT

Date of Decision : 05-02-1901

Acts Referred:

Citation : (1901) ILR (Cal) 190

Hon'ble Judges : Prinsep, J; Hill, J; Francis W. Maclean, J

Bench : Full Bench

Judgement

Maclean, C.J.—We do not think that this is a case in which a certificate ought to be granted. It appears to us that the view taken in the case of Gopinath Birbar v. Goluck Chunder Bose (1) must be taken to have been subsequently overruled by the decision of the Privy Council in the case of Tulsi Persad Bhakt v. Benayek Misser I. L. R.(1896) Cal. 918 : L.R. 23 IndAp 102. In the latter case their Lordships of the Judicial Committee sum up their conclusion in this language: "Their Lordships think that no question of law, either as to construction of documents or any other point, arises on the judgment of the High Court, and that there are concurrent findings of the two Courts below on the oral and documentary evidence submitted to them. That being so, the present appeal cannot be entertained."

2. In the present case there are concurrent finding of the Lower Court and of this Court upon questions which are merely questions of fact, and, upon those findings as they stand, it is conceded that no question of law arises. The case, therefore, appears to us to be covered by the Privy Council authority to which I have referred, an authority as to the true meaning of Section 596 of the Code of Civil Procedure.

3. According to that view, it is not open to us to grant a certificate in the present case.

4. The application must be dismissed with costs.