

(1933) 09 AHC CK 0005
In the Allahabad High Court

Thakur Mahendrapal Singh	Vs	APPELLANT
Ganga Sahai and Others		RESPONDENT

Date of Decision : 13-09-1933

Acts Referred:

Citation : (1933) 09 AHC CK 0005

Final Decision : Allowed

Judgement

Thom, J.—This is plaintiffs' appeal. In the plaint the plaintiff alleges that the defendants were lessees of weighment dues during certain years in respect of the land, which is specified in the plaint at a rental of Rs. 100 a year and that Rs. 200, on account of such rent for the years 1333 Fasli and 1334 Fasli was due, by the defendants. The learned Assistant Collector in the Court of first instance, decided that the parties had entered into such a contract as is set forth in the plaint but that he had no jurisdiction to entertain the suit.

2. The lower Appellate Court has confirmed the decree of the Court of first instance. The decision in the suit turns up on the question whether weighment dues, which are monetary payments made by the person who is licensed by the landholder or the lambardar to exercise his profession of weighing the goods of the tenants within the zamindari of the licensor, came within the definition of "Sayer" in Section 3(4) of the Tenancy Act. If these dues do come within the definition of "sdyor" in the Tenancy Act then the learned Assistant Collector was wrong in dismissing the suit upon the ground that he had no jurisdiction.

3. It is clear that this point is concluded by authority in favour of the appellant. In the case of Suraj Pal Singh Vs. Jawahar Singh, a Bench of this Court held that weighment dues did come within the definition of "sayer". This authority is binding upon me. I, therefore, allow the appeal and remit the case to the lower Appellate Court to decide the merits of the case as between the parties. The appellant will bear the costs of this appeal.

4. At the request of Counsel, leave for a Letters Patent appeal is granted.