

(1893) 01 CAL CK 0005
In the Calcutta High Court

Thompson

APPELLANT

Vs

The Calcutta Tramway Company, Limited

RESPONDENT

Date of Decision : 26-01-1893

Acts Referred:

Citation : (1893) ILR (Cal) 319

Hon'ble Judges : Hill, J

Bench : Single Bench

Judgement

Hill, J.—This application for leave to continue the suit in forma pauperis is opposed by the Standing Counsel on behalf of Government on the ground that the Code gives no power to allow an application for a suit not instituted in forma pauperis to be so continued. But I think I ought to follow the decision in the case of *Nirmul Chandra Mookerjee v. Doyal Nath Bhattacharjee* ILR Cal. 130, where Pontifex, J., in a similar case held that the power, which is undoubtedly in the Court of allowing a suit to be instituted in forma pauperis includes power to allow a suit not so instituted to be continued in that form. That case has been followed by the Bombay Court in *Revji Batil v. Sakharam* ILR 8 Bom. 615, and in another case *Doorga Churn Doss v. Nittokally Dossee* ILR Cal. 819 : 6 C.L.R. 120, Wilson, J., in relation to an application made by a defendant to be allowed to defend in forma pauperis, after taking time to consider granted the application, having previously expressed the opinion that though there is no provision in the Code, the defendant on showing his poverty might be allowed to defend the suit as a pauper. These are the only reported cases bearing on this question, but I understand that this application is in conformity with what has been understood to be the practice of the Court, and on the whole, I think, it ought to be granted. I therefore make the order asked for.