
(1903) 06 CAL CK 0020

In the Calcutta High Court

Case No : Appeals from Original Decrees Nos. 1 and 2 of 1901

Zinnatunnessa Khatun

APPELLANT

Vs

Girindra Nath Mukerjee

RESPONDENT

Date of Decision : 11-06-1903

Acts Referred:

Citation : (1903) 06 CAL CK 0020

Final Decision : Allowed

Judgement

Maclean, C.J.—These appeals must be allowed.

2. The case appears to me to fall within Article 17 of the Second Schedule to the Court-fees Act of 1870, Sub-section (iii) and not u/s 7, Sub-section (iv), Clause (c). The safest course in these cases is to ascertain what the Plaintiff actually asks for by his plaint and not to speculate upon what may be the ulterior effect of his success. It may very well be that as the result of setting aside the decree in question, some ulterior benefit may directly or indirectly flow to the Plaintiff. But what we have to look at is what he asks for by his plaint. It is clear looking at the plaint that all that the Plaintiff asks for is a declaratory decree and he does not ask for any consequential relief. The case of Shrimant Sagajirao Khanderav Naik Nimbalkar v. Smith ILR (1895) Bom. 736 accords with this view.

3. The appeals must therefore be allowed. The court-fee paid was sufficient and the Plaintiff must be allowed to go on with the suits. The Appellant is entitled to his costs in these appeals.

Ceidt, J.

4. I concur.