

(1920) 03 AHC CK 0021

Allahabad High Court

Case No: None

Har Sahai Mal

APPELLANT

Vs

B. Birj Lal

RESPONDENT

Date of Decision: March 11, 1920

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- Legal Practitioners Act, 1879 - Section 28

Citation: AIR 1920 All 142(1) : 58 Ind. Cas. 182

Hon'ble Judges: P.C. Banerji, J

Bench: Single Bench

Judgement

P.C. Banerji, J.

This was a suit brought by a Mukhtar for services rendered by him to the defendant as a Mukhtar in a criminal case which was pending against the defendant. He stated that his fee for attendance in the Court was Rs. 20 a day besides travelling expenses; that he had received Rs. 40 and that a balance of Rs. 95 was due. The defendant disputed the claim mainly on the ground that it offended against the provisions of Section 28 of the Legal Practitioners Act. The Court of first instance overruled this objection and held that the suit was one for work done and made a decree in the plaintiff's favour for Rs. 50, which it held to be reasonable remuneration for the work done by the plaintiff for the defendant. This decree has been affirmed by the lower Appellate Court. The present application is one for revision of the decree of the lower Appellate Court, on the ground that decree is erroneous inasmuch as the learned Judge of that Court did not give effect to the provisions of Section 28 of the Legal Practitioners Act. The application purports to have been made u/s 115 of the Code of Civil Procedure. In my opinion the application is not maintainable under that section. There was no question of jurisdiction and it cannot be said that the Court acted illegally in the matter of its jurisdiction. That an appeal lay to the lower Appellate Court can admit of no doubt and it cannot be disputed that it had jurisdiction to hear the appeal. In deciding the appeal and in exercise of its jurisdiction it

has committed an error at law, that would not afford to the defeated party a right to apply for revision u/s 115. Further more, the decisions of the Courts below are in accordance with the view held by this Court in Raghunath Satan Singh v. Sri Earn 28 A. 764 : 3 A.L.J. 579 : (1906) A.W.N. 235 : 1 M.L.T. 242. The suit was one for work done and has been rightly treated by the Court below as such. I dismiss the application with costs.