

(1880) 05 AHC CK 0007

Allahabad High Court

Case No: None

Ostoche

APPELLANT

Vs

Hari Das and Another

RESPONDENT

Date of Decision: May 3, 1880

Citation: (1880) ILR (All) 869

Hon'ble Judges: Pearson, J; Oldfield, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

Pearson, J.

The lower Appellate Court has dismissed the appeal preferred to it apparently on the ground that the appellant had not paid a

sum of Rs. 400 demanded from him as court-fees due in respect of the consequential relief sought by him in the suit on the plaint and the

memorandum of appeal, and has on the same ground also dismissed his claim which had been dismissed on the merits by the Court of First

Instance. The lower Appellate Court has assumed Rs. 3, 500, the market-value of the property as alleged by the defendants, to be the value of the

consequential relief sought, but the consequential relief sought was not the possession of the property, but the removal of an attachment from it.

2. The value of the relief sought should have been stated in the plaint. It is not stated therein; and the Court of First Instance did not cause the

defect to be supplied. The plaint states the value of the property to be Rs. 1,441, but that amount cannot be taken to be the value of the relief

sought. Under the Court Fees Act, the valuation of the relief sought rests with the plaintiff and not with the Court. In this particular instance the

declaration of the right claimed necessarily carried with it the consequential relief sought, of which the value was merely nominal. We accordingly set aside the lower Appellate Court's decree and remand the case to it for fresh disposal on the merits. The costs of this appeal will follow the event.