

## Mohamed Sher Khan and Others Vs Chamman Khan and Another

**Court:** Allahabad High Court

**Date of Decision:** April 7, 1926

**Hon'ble Judges:** Sulaiman, J

**Bench:** Single Bench

**Final Decision:** Disposed Of

### Judgement

Sulaiman, J.

This appeal arises out of a suit brought to recover by way of contribution a share of the decretal amount paid by the plaintiff.

The decree was a joint decree for damages against, the defendants. The amount claimed was less than Rs. 500. In my opinion no second appeal

lies to the High Court, The suit was obviously one of a Small Cause Court nature, and a second appeal is barred. The learned vikil for the

appellants relies on Clause 41 of Schedule 2, of the Provincial Small Cause Courts Act. That clause obviously applies to suits for contributions

brought by a sharer in joint property in respect of the payment made by him of money due from a co-sharer. This is not the case here. The parties

are not sharers in any joint property at all. They are co-judgment-debtors jointly liable to pay the amount of the decree. I may refer to Roshan Lal

v. Ram Lal (1907) 4 ALJ 543 and Ant Ram Vs. Mithan Lal and Another,

2. It is lastly urged that this appeal should be treated as a revision. Assuming for the sake of argument that the lower appellate Court has made a

mistake on a point of law which is by no means clear), the case does not fall u/s 115, Civil P.C. The Court had the jurisdiction to hear the appeal

and to dispose of it; whether it has done so rightly or wrongly is immaterial. It has committed no irregularity in the exercise of its jurisdiction. The

appeal is accordingly dismissed under Order 41, Rule 11 Civil P.C.