

(1921) 01 AHC CK 0026**Allahabad High Court****Case No:** None

Mul Chand and Nemi Chand

APPELLANT

Vs

Basdeo, Ram Sarup and Others

RESPONDENT

Date of Decision: Jan. 24, 1921**Citation:** (1921) ILR (All) 438**Hon'ble Judges:** Tudball, J**Bench:** Single Bench**Final Decision:** Allowed**Judgement**

Tudball, J.

This is an application in revision u/s 25 of the Small Cause Courts Act. The facts are as follows: The plaintiff, opposite party, brought a suit against the applicants to recover a certain sum of money. In the plaint, as it stood first, that sum was Rs. 285-12-0. He also asked for interest pendente lite and subsequent to the decree. The decree was passed ex parte and ran as follows:

| | | | | |
|-----------------|----|----|----|----------------------|
| Date | .. | .. | .. | 20th of August, 1919 |
| In whose favour | .. | .. | | Plaintiff |
| Against whom | .. | .. | | Defendants |
| Amount decreed | .. | .. | | Rs. 285-12 |
| Costs | .. | .. | | Rs. 33-14 |
| By whom payable | .. | .. | | Defendants. |

2. Under these the words written were: "The claim of the plaintiff together with costs and future interest is decreed."

3. Now, after the institution of the suit the plaintiff amended his plaint and his claim was actually for Rs. 293-8-3 and Rs. 43-4-0 costs. The decree was passed on the 20th of August, - 1919. On the 26th of August, six days afterwards, the defendants deposited Rs. 320 u/s 17 of the Act and asked for a re-hearing. Their application for

re-hearing has been rejected on the ground that the deposit was insufficient because it did not include a sufficient amount to cover the interest on the claim from the date of the suit up to the date of the decree. The total figures in the decree are Rs. 319-10-0. They deposited Rs. 320, one anna more than what was necessary to cover the interest for six days on Rs. 319. The lower court has held that the words "Dawa muddai mai kharcha wa sud ainda decree ho" ought to have put the defendants on their guard and made them deposit a sufficient amount to cover the interest from the date of the suit up to the date of the decree. The court below has taken a very technical view of the whole matter, probably because the learned gentleman who represented the defendant in the court below was a little bit too insistent on his view of the case and lost sight considerably of his clients' interest. If the court below did not wish to mislead any person it ought to have put into its decree correct figures. It is all very well to say that the plaintiffs' claim is decreed in full and then to add under or above that statement, details of figures which are incorrect and then to ask the defendants to make a calculation for themselves to see whether those figures were correct or not. It is the duty of the court to enter correct figures in its decree, and if a defendant deposits the amount stated therein u/s 17 of the Small Cause Courts Act, he must be deemed to have complied with the law. The decree drawn up by the court below was carelessly drawn up. It was incorrect in figures as well as in details, and it is impossible to say on the face of that decree that the defendants had not complied with the law. As a matter of fact the decree has since been amended on the 20th of December, 1919, and the figures have been altered. I, therefore, allow the revision and set aside the order of the court below. The defendants will be allowed two weeks from the date of the receipt of the record by the court below to deposit a sum of Rs. 336-12-3 plus interest from the 23rd of June, 1919, to the 26th of August, 1919. Intimation of the receipt of the record shall be given to the pleader for the defendants within twenty-four hours of its arrival. Costs of this application and all costs incurred by either party up to the present moment will be costs in the cause and will abide the remit. Any sum already deposited, if any, will go to make up the sum of Rs. 336-12-3.