

**(1920) 03 AHC CK 0024**

**Allahabad High Court**

**Case No:** None

Ram Kumar

APPELLANT

Vs

Muhammad Yakub and Another

RESPONDENT

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**Date of Decision:** March 26, 1920

**Citation:** (1920) ILR (All) 445

**Hon'ble Judges:** Grimwood Mears, C.J; Muhammad Rafiq, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

Grimwood Mears, C.J. and Muhammad Rafiq, J.

This is an application u/s 110 of the CPC for permission to appeal to his Majesty in Council. The parties to the application are a contractor and a person who employed the contractor to build a house for him. The valuation of the dispute between the parties was over Rs. 10,000 in the court of first instance. It came up in appeal before a Bench of this Court and the contractor succeeded. The building owner now files this application for leave to appeal to the Privy Council. For the contractor the objection is taken that the value of the subject matter in dispute before the Privy Council would be less than Rs. 10,000 and no substantial point of law is involved in the case and therefore no leave should be given. The learned Counsel for the applicant replies that the value of the subject matter in dispute before the Privy Council would be over Rs. 10,000, if to the original amount decreed by this Court is added interest at the rate of 6 per cent., per annum, in which case the amount will be Rs. 10,055; moreover, it is urged that dispute is of a nature that is not to be found in any reported case and has never been up in appeal to the Privy Council, and therefore it is a matter of general interest that permission should be allowed. We may dispose of this latter contention at once by saying that we find no question of substantial law or of general public interest involved in the appeal. The dispute between the parties is of the ordinary nature, arising between a contractor and a building owner. The point in issue between the parties in the case depends upon the

evidence. As to the valuation of the subject matter in dispute, we may observe in the first instance that out of the decretal amount of Rs. 8,000, Rs. 1,821 have to be deducted, which the applicant took out of court. The balance of Rs. 6,000, plus interest at 6 per cent-per annum would not bring up the total amount to Rs. 10,000. But, apart from the sum of Rs. 1,821, the applicant has not, in our opinion, the right to add interest to the decretal amount in order to show that the valuation of the proposed appeal to the Privy Council would be Rs. 10,000 or more. The applicant relies on the case of the Bank of New South Wales v. Owstort ILR (1879) A.C. 270, In that case interest was allowed to be added to the decretal amount for the purpose of following the subject matter in dispute before the Privy Council. But there is one point of difference between that case and the present namely, that by the law of New South Wales, by Statute, interest was added to the decretal amount. In this country there is no Statute giving the right to the decree-holder to add interest to the decretal amount. The grant of interest is discretionary to the court. We, therefore think that the case relied upon by the applicant does not help his contention.

2. We disallow the application with costs.