
(1877) 06 AHC CK 0004

Allahabad High Court

Case No: None

Dalip Singh

APPELLANT

Vs

Durga Prasad

RESPONDENT

Date of Decision: June 7, 1877

Citation: (1875) ILR (All) 442

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

Bench: Division Bench

Final Decision: Dismissed

Judgement

Pearson, J.

We are compelled to concur in the ruling of the lower Appellate Court that the receipt for Rs. 477 should have been registered, and not having been registered, is inadmissible as evidence of the payment. But the lower Appellate Court's further ruling that the oral evidence of the payment adduced by the defendant is inadmissible is opposed to illustration (e), Section 91 of the Indian Evidence Act. We therefore direct the lower Appellate Court, u/s 351 of Act VIII of 1850, to find upon the oral evidence whether the alleged payment is proved to have been made, and to submit its finding when the parties may take objections within a week.

2. The Subordinate Judge having returned a finding against the defendant on the parol evidence, the Court passed the following final

JUDGMENT

3. No objection being taken to the finding of the lower Appellate Court on the point referred to it, we accept that finding and dismiss the appeal with costs.