

(1880) 05 AHC CK 0014

Allahabad High Court

Case No: None

Sheo Gholam Singh

APPELLANT

Vs

Sheo Partab Narain
Singh

RESPONDENT

Date of Decision: May 4, 1880

Citation: (1880) ILR (All) 875

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

Bench: Division Bench

Final Decision: Disposed Of

Judgement

Pearson, J.

The memorandum of appeal to the lower Appellate Court was presented on the 23rd June 1879, admittedly within time. The lower Appellate Court was therefore wrong in declaring, on the 18th July following, that the appeal was not within time. The orders passed by the lower Appellate Court on the 23rd June and 5th July in the matter of the deficiency of the court-fee were not in accordance with the provisions of Section 54(b), Act X of 1877. The Judge should have fixed a time within which the deficiency was to be paid up, and on the expiry of that period, in the event of its not being paid up, should have rejected the appeal.

2. Having regard to the irregularity of the lower Appellate Court's procedure, we must allow the appeal, and, reversing the Judge's order, direct him to place the appeal on his file and proceed to dispose of it according to law. We make no order as to costs.