

(1930) 04 AHC CK 0045

Allahabad High Court

Case No: None

Lala Ulfat Rai

APPELLANT

Vs

Lala Tulshi Prasad

RESPONDENT

Date of Decision: April 9, 1930

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 7 Rule 10, 104(2)

Citation: 125 Ind. Cas. 581

Hon'ble Judges: Shah Muhammad Sulaiman, J; King, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. This appeal has been filed from an order of the District Judge remanding the case to the trial Court. The Court of first instance held that the suit was not cognizable by the Civil Court and ordered that the plaint should be returned for presentation to the proper Court. The order was obviously passed under Order VII, Rule 10 of the Code of Civil Procedure. An appeal was preferred by the plaintiff to the District Judge which was an appeal expressly allowed by Order XLIII, Rule 1, Clause (a). The learned District Judge has taken a contrary view and held that the Civil Court had jurisdiction to try the suit. He has accordingly remanded the case which is an order passed by him in appeal. Section 104, Sub-section (2) expressly prohibits any further appeal from this order. The case is covered fully by the ruling in Naubat Singh v. Baldeo Singh 9 Ind. Cas. 666 : 33 A. 479 : 8 A.L.J. 12. As the learned District Judge had jurisdiction to dispose of the matter and has not acted with any material irregularity in the exercise of his jurisdiction, we cannot interfere in revision. The appeal is accordingly dismissed with costs including in this Court fees on the higher scale.