

**(1873) 11 PRI CK 0006**

**Privy Council**

**Case No:** None

Kristo Indro Saha and  
Issur Chunder Saha

APPELLANT

Vs

Huromonee Dassee

RESPONDENT

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**Date of Decision:** Nov. 22, 1873

**Citation:** (1873) 1 IndApp 84

**Hon'ble Judges:** James W. Colvile, Barnes Peacock, Montague E. Smith, Robert P. Collier,  
Lawrence Peel, JJ.

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### **Judgement**

James W. Colvile, J.

1. This Court is unwilling to interfere with the discretion of the Judge below as to value, but this case presents peculiar features. The Defendant as well as the Plaintiff has taken the values at the rates fixed in the plaint. The cases were consolidated and heard together, and the Defendant has carried out that consolidation, and has obtained the benefit of an appeal to the High Court upon the facts by adopting the Plaintiffs' valuation. She cannot afterwards come here and object to that valuation. The Judge ought to have given more weight to the acts of the parties, and not to have rejected the application on the ground of value. Their Lordships decide that special leave to appeal may be given on the usual terms as to giving security. The consolidation of causes is for the purpose of saving the time of the Court and suitors, and saving expense. It should not in any way prejudice parties in their rights to insist on the finality of a decision.

In the particular case the decision is based on the principle that a party in a suit cannot approbate and reprobate in respect of the same matter. The consolidated value is not made the basis of the decision.