

Kailash Chandra Bhowmik Vs Chandra Kanta Bhowmik and Others

Court: Calcutta High Court

Date of Decision: June 2, 1920

Citation: 62 Ind. Cas. 651

Hon'ble Judges: Teunon, J; Newbould, J

Bench: Division Bench

Judgement

1. These two appeals arise out of two suits for contribution. It appears that the plaintiff and the defendants or their predecessors in-interest agreed

to deliver 18 cottas of land in their joint possession to certain persons spoken of as the Pals. They failed to do so and a suit was, therefore, brought

against them for damages for breach of contract. The suit was decreed against the present plaintiff and the three defendants with costs. Next

followed a suit for mesne profits in respect of the period in which the plaintiff and the three defendants remained in wrongful possession of the said

18 cottas of land. That suit also was decreed with costs. The Pals put their decrees into execution and recovered the amount due from the plaintiff.

The plaintiff now seeks to recover from the three defendants three-fourths of the money he had to pay in execution of the said decree. He failed in

both the Courts below and now he appeals to this Court.

2. It is contended on behalf of the defendants that the suits in question are of a Small Cause Court nature and below 500 rupees in value and no

second appeal lies. On behalf of the appellant it is contended that the suits in question fall within Article 41 of the Second Schedule of the Provincial

Small Cause Courts Act.

3. We are unable to accede to this contention on behalf of the appellant and must hold that, on the facts of this case, no second appeal lies. The

appeals are accordingly dismissed with costs.