

(1869) 05 CAL CK 0013

Calcutta High Court

Case No: None

Sashi Bhusan Banerjee

APPELLANT

Vs

Tarachand Kar and
Others

RESPONDENT

Date of Decision: May 29, 1869

Judgement

Sir Barnes Peacock, Kt., C.J.

We are of opinion that in point of law the construction of the Judge of the Small Cause Court is not correct. The bond certainly did not contain any agreement between the plaintiff and the defendants to evade the Stamp Laws. The stipulation in the bond, if true, shows that the borrowers were urgently in want of the money, and were unable to procure a stamp at the moment; and that they therefore executed the bond on plain paper. It was then provided that should it be necessary for the plaintiff to bring any suit on the bond, whatever penalty the plaintiff should have to pay would be paid by the defendants with interest. That did not amount to an agreement to evade the Stamp Laws, it might have amounted to evidence from which the Judge might have inferred as a matter of fact, that it was the intention of the parties to evade the Stamp Laws; but in that case it would have been the duty of the Judge to receive oral evidence to the contrary which he refused to do.