

(1870) 02 CAL CK 0014

Calcutta High Court

Case No: None

Abhaya Charan Dutt

APPELLANT

Vs

Haro Chandra Das
Banik

RESPONDENT

Date of Decision: Feb. 9, 1870

Judgement

L.S. Jackson, J.

It seems clear that in this case the limitation prescribed by clause 2, section 1, Act XIV of 1859, will not apply; in the first place, because the plaintiff, who was a mohurir in employ under the directions of the defendant, does not come within the description of servant as mentioned in that clause. We may refer the Judge of the Small Cause Court to a ruling in Nitto Gopal Ghose v. A.B. Mackintosh 6 W.R.C.R. 11. Moreover, the defendant does not appear to have been the employer of the plaintiff in this case, but merely to have been a superior ministerial officer who, by arrangement between the parties and their common employer, was accustomed to receive the money payable to the plaintiff from the Collector. If, therefore, the defendant by himself, or by some other person for whom he was answerable did receive the salary due to the plaintiff, and was, therefore, responsible to him for that amount, the claim would be of the nature of a claim for money belonging to the plaintiff which the defendant had received, to which, apparently, the limitation of six years would apply. The present suit seems to have been brought within three years from the date of such receipt. It appears, therefore, that the suit would not be barred by limitation.