

(1921) 01 CAL CK 0017

Calcutta High Court

Case No: Org. C.S. No. 2087 of 1920

Ratanchand Dharamchand

APPELLANT

Vs

Gobind Lall Dutt

RESPONDENT

Date of Decision: Jan. 12, 1921

Judgement

Greaves, J.

The plaintiff in this suit asks for (a) leave under clause 12 of the Charter, (b) for judgment for a named sum, and (c) for an order on the defendant to execute and register a mortgage in his favour, and for ancillary reliefs in respect of these prayers.

2. The land in respect of which relief is sought under clause (c) of the prayer is situate outside the jurisdiction of this Court, and the defendant urges that this is not a case in which the Court can give leave under clause 12 of the Charter. I think this contention is correct and that a suit for specific performance of an agreement to mortgage lands outside the jurisdiction, even if the title is accepted, is a suit for land within the meaning of clause 12 of the Charter, and accordingly that leave cannot be given. I have been referred to the case of Sreenath Roy v. Gaily Doss Ghosh (1880) 5 Cal. 82. That decision seems to me to cover the present case and with that decision I respectfully agree. In the result I hold that no leave can be given under clause 12 of the Charter and the suit cannot proceed. So far as regards the reliefs claimed other than the relief (b) as to which no decision is sought on the present application. The injunction granted on the 28th September last should be dissolved. Defendants to get costs of both the matters in the list to-day.