

(1923) 02 CAL CK 0035

Calcutta High Court

Case No: None

Samsal Haq and Another

APPELLANT

Vs

Abdul Kaim

RESPONDENT

Date of Decision: Feb. 8, 1923

Citation: AIR 1923 Cal 567 : 76 Ind. Cas. 766

Hon'ble Judges: Walmsley, J

Bench: Single Bench

Judgement

Walmsley, J.

No one appears to show cause against this Rule. The position is this: The plaintiff executed a usufructuary mortgage in favour of the defendants Nos. 1 and 2. The sum mentioned in the bond was Rs. 150. He brought the suit to which this rule rebates, to recover Rs. 30 on the allegation that the mortgagees paid him Only Rs. 120. It is argued on behalf of the defendants-petitioners that, the suit is not maintainable and, in any event, not triable by a Court of Small Causes. These questions were raised in the case of Shaik Galim v. Sudrijan Bibi 29 Ind.Cas. 621 : 43 C. 59 : 19 C.W.N. 1332 : 21 C.J.J. 532 and the answer to both the questions was in the negative. The Rule is made absolutel, the judgment of the Court of Small Causes is set aside and the suit dismissed with costs. As there is no appearance by the opposite party in this Court, there will be no order as to the costs of this Rule.