

(1923) 01 CAL CK 0057

Calcutta High Court

Case No: Civ. Rule No. 575 of 1922

Nanibala Dassya

APPELLANT

Vs

Jaimini Sundari and others

RESPONDENT

Date of Decision: Jan. 25, 1923

Judgement

Rankin, J.

In this case I am of opinion that the rule must be made absolute. It appears that upon the terms of the CPC and the cases thereunder, in the particular case of Venkatanarasaya v. Achemma [1881] 3 Mad. 3 a minor who is not possessed of sufficient means within the definition of pauperism for the purpose of Order 33 is entitled to be allowed to sue inform pauperis by a next friend although the next friend is not a pauper. In like manner the wealth or other circumstances of the minor's relation in general are not material under the Code. The law of India in this respect appears to be very different indeed from the law as prevailed in the Court of Chancery in England. Under the circumstances we have no option but to make this rule absolute and to direct the Court below to proceed under Order 33. There will be no order as to costs.

B.B. Ghose, J.

2. I agree.