

Dhruba Sen Vs Salil Sen Gupta

Court: Calcutta High Court

Date of Decision: March 13, 1978

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 115

Citation: (1978) 1 CALLT 85 : (1978) 1 ILR (Cal) 648

Hon'ble Judges: M.M. Dutt, J; D.C. Chakravorti, J

Bench: Division Bench

Advocate: Samir Kumar Mukherjee and Nirmal Kumar Manna, for the Appellant; Soumen Kumar Ghose, for the Respondent

Judgement

M.M. Dutt and D.C. Chakravorti, JJ.

It appears that the application u/s 115 of the CPC has been valued at Rs. 100 only. Through

oversight, the application was moved before this Bench and we issued a Rule on the application. The office, by its note dated February 28, 1978,

has drawn our attention to the fact that the application has been valued at Rs. 100 only. It is, further, stated in the office report that the Division

Bench has no jurisdiction to issue a Rule in this matter.

2. * * *

3. Mr. Samir Kumar Mukherjee, learned Advocate appearing on behalf of the Petitioner, submits that the Division Bench has jurisdiction in all

matters. But for the convenience of transaction of business the learned single Judges have been invested with certain powers in disposing of cases

up to a limit as to the pecuniary value thereof. He submits that it may be irregular for a Division Bench to issue a Rule, but surely it is not illegal or

without jurisdiction. In support of his contention he has placed reliance on an unreported Bench decision of this Court in S.R. Bhompal v.

Dwijendra Nath Chakraborty C.R. No. 2227 of 1976 decided by N.C. Mukherji and B.C. Ray JJ. on August 24, 1976. In that case, the Bench

took the view that the Division Bench had jurisdiction to entertain and hear an application valued at less than Rs. 5,000 or, in other words, it would

not be without jurisdiction for a Division Bench to hear an application which, under the rules of this Court, could be disposed of by a learned single

Judge. There is also a judgment of Renupada Mukherjee J. in Ganendra Nath Roy v. Sm. Satyabala Basu ILR 1958 (2) Cal. 522. The learned

Judge has also taken the same view. In these circumstances, we do not think that we had no jurisdiction to issue a Rule on the application valued at

Rs. 100 only. We would, however, direct that the Rule may now be placed before a single Bench for disposal.

4. As prayed for on behalf of the Petitioner and the Plaintiffs opposite parties, the interim order is modified to this extent that the Receiver would

submit the nomination after consulting the Petitioner Dhruba Sen and the Plaintiff opposite party No. 2, Santimoy Chatterjee, The rest of the order

will stand.