

(1880) 03 CAL CK 0006

Calcutta High Court

Case No: None

Doorga Churn Doss

APPELLANT

Vs

Nittokally Dossee and
Others

RESPONDENT

Date of Decision: March 15, 1880

Citation: (1880) ILR (Cal) 819

Hon'ble Judges: Wilson, J

Bench: Single Bench

Judgement

1. Mr. J.D. Bell for the Government contended, that Government should not be called upon to appear, but should only be called upon when a plaintiff seeks to institute a suit in order to see that the revenue is not defrauded. He also contended that there the Court has no power under the Code to allow a defendant to appear in forma pauperis.

Wilson, J.

2. The Code binds the Court so far as it goes, but if the Court had power before the Code was passed to allow a defendant to appear in forma pauperis, and that power is not expressly taken away by the Code, the power must remain. In Courts of common Law the defendant was not allowed to defend in forma pauperis, because the power was statutory; but in the Court of Chancery, the defendant was allowed so to defend because the power was not statutory.]

3. March 15th.--On this day the Court made an order allowing the defendant to defend the suit in forma pauperis.