

(1880) 01 CAL CK 0008

Calcutta High Court

Case No: None

Isan Chunder
Banerjee

APPELLANT

Vs

Luchun Gope

Kemp Vs Prem
Narayan Sing

RESPONDENT

Date of Decision: Jan. 29, 1880

Acts Referred:

- Mufassal Small Cause Courts Act - Section 21

Citation: (1880) ILR (Cal) 699

Hon'ble Judges: Tottenham, J; Jackson, J

Bench: Division Bench

Judgement

Jackson, J.

We think there can be no doubt upon this question. It appears that, by the second schedule of the Code of Civil Procedure, Chap. xlvii, which deals with review of judgment, is extended absolutely to Courts of Small Causes constituted under Act XI of 1865. It is also true, as the Judge of the Small Cause Court points out, that Section 21 of Act XI of 1865 has not been repealed. What will be the effect of the simultaneous retention of that section with reference to new trials, is a question which we are not at present called upon to determine. The Legislature unequivocally expresses its intention that the procedure in review of judgment shall be applicable to Courts of Small Causes, and if so, the Small Cause Court is of course at liberty to entertain an application of that sort and in so doing must proceed strictly under the rules contained in that chapter, and the procedure relating to new trials u/s 21 of Act XI is not to be mixed up with those rules.