
(1874) 09 CAL CK 0003

Calcutta High Court

Case No: Special Appeal No. 1045 of 1874

S.G. Clark

APPELLANT

Vs

James Hills and
Another

RESPONDENT

Date of Decision: Sept. 21, 1874

Final Decision: Dismissed

Judgement

L.S. Jackson, J.

The only question raised in this case was whether the Court of the Subordinate Judge of Moorshedabad had jurisdiction to try the suit. This question was decided both by that Court and by the lower Appellate Court, in favor of the plaintiff. The learned Counsel who addressed us for the special appellants argued this matter at considerable length, but those arguments were chiefly based upon English cases or upon cases arising on the Original Side of the High Court; and the decisions in those cases--at least those which appear to have prevailed in England turn chiefly upon the words "whole cause of action," the term "cause of action" in England having been construed to mean the whole cause of action; and the Letters Patent of the High Court, in regard to the exercise of the ordinary original civil jurisdiction, contain the expression in whole or in part. In particular, our attention was called to an elaborate and very learned judgment of Holloway, J., in the case of DeSeuza v. Coles 3 Mad. H.C., 384. It appears to us that, in this case, the plaintiffs cause of action consisted in this,--that the defendants refused to pay the price of certain indigo-seed supplied to them, by the plaintiff at their request, which payment ought to have been made at the plaintiff's residence. There was therefore an expectation of the fulfillment of the contract within the district of Moorshedabad. We think it is not necessary to interpret the words "cause of action" as meaning the whole cause of action; and consequently the English cases, and the cases decided on the Original Side, afford no guide. Within the meaning of s. 5 of the Code of Civil Procedure, that seems to be a cause of action which would entitle plaintiff to relief. We think therefore that the Subordinate Judge's Court at Moorshedabad had jurisdiction to try this case, and that the objection on this point must be overruled. It is agreed that the defendants have no,

grounds of complaint as regards the measure of damages. The special appeal is, therefore, dismissed with costs.