

(1868) 06 CAL CK 0027

Calcutta High Court

Case No: None

Gaur Mohan Das

APPELLANT

Vs

Ramrup Mazoomdar

RESPONDENT

Date of Decision: June 27, 1868

Judgement

Sir Barnes Peacock, Kt., C.J.

The Judge of the Small Cause Court is correct in holding that a summary application u/s 53, Act XX of 1866, cannot be entertained at the suit of the assignee of the obligee.

¹Enforcement of such agreement.

The petition shall, where a stamp is required by law, bear a stamp of one-fourth the value prescribed for a plaint in such a suit, and may be amended by permission of the Court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

Decree.

On production in Court of the obligation and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court.

Court may adjourn hearing and direct that parties appearing to be interested in a suit shall be made parties to the suit.

[Sec. 53:--Within one year from the date on which the amount becomes payable, or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable, the obligee of any such obligation registered with such agreement as aforesaid, whether under the said Act No. XVI of 1864 or under this Act, may present a petition to any Court which would have had

jurisdiction to try a regular suit on such obligation for the amount secured thereby, or for the instalment sought to be recovered.

²Sec. 73:--If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to or who claim some share or interest in the subject-matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit, as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.]