

R. Venkatasubha Rao v. K. Narayana Rao⁽¹⁾. There is no Patna case precisely in point; but the case of *Ramshivendra Narayan Ojha v. Awadh Bihary Saran* ⁽²⁾ supports the view which I have expressed. There can be no question that there is a body of authority for the view held by the learned District Judge. The case is undoubtedly a very hard one, but that does not permit the Court to interfere where it has no power so to do.

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BHARI
JENA
2.
GAURANGA
CHARAN
SAHU.
HARRIES,
C. J.

In my view no ground has been made out for interfering with the decision of the lower appellate Court and accordingly I would dismiss this application and make no order as to costs.

ROWLAND, J.—I agree.

Rule discharged.

S. A. K.

REVISIONAL CIVIL.

Before Harries, C. J. and Rowland, J.

MANMATHA NATH MULLICK

vs.

JITENDRA NATH MUKHARJI.*

1938.

December, 7.

Legal Practitioners (Fees) Act, 1926 (Act XXI of 1926), section 4—several pleaders engaged in a case—absence of specific agreement as to amount of fees—each pleader, whether entitled to full fee assessed at the hearing.

Where several pleaders have been engaged in a case and no agreement is specifically entered into as to the amount of their fees, each pleader is entitled to his fees up to the full fee assessed at the hearing.

*Circuit Court, Cuttack. Civil Revision nos. 33 of 1937, 10 of 1938, and 106 of 1938, from the orders of Babu R. C. Mitra, Small Cause Court Judge of Puri, dated the 8th May, 18th September and 23rd December, 1937.

(1) (1922) A. I. R. (Mad.) 83.

(2) (1923) A. I. R. (Pat.) 159.

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MANMATHA
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Vellanki Ramakrishna v. P. Venkataramayya(1) and
Musammatt Babui Radhika Debi v. Ramasray Prasad Chowdhry(2), followed.

Sarat Chandra Roy Chowdhry v. Chandi Charan Mitra(3),
not followed.

Application in revision by a client against the decision of the lower court granting decrees for the amount of fees claimed by three separate pleaders who had appeared for him in a litigation.

The facts of the case material to this report are set out in the judgment of Rowland, J.

B. K. Ray, for the petitioner.

R. N. Sinha, for the opposite party.

ROWLAND, J.—These three civil revision applications which have been heard together are presented by a client against the decision of the Small Cause Court Judge granting decrees for the amount of fees claimed by three separate pleaders who had appeared for him in a litigation. It does not appear that at the time of engaging the pleaders any agreement was specifically entered into as to the amount of their fees. They are accordingly entitled to such fees as are payable to them under section 4 of the Legal Practitioners (Fees) Act (Act XXI of 1926). The Small Cause Court Judge in each case entered into evidence as to the amount of work done by the pleader, assessed a reasonable charge and gave a decree accordingly making allowance for the amounts already paid. He did not award to any individual pleader more than the taxed fee of Rs. 650 which is entered in the decree of the court in the litigation; but the total of the amounts decreed very materially exceeds that.

The contention before us is that we should follow the decision in *Sarat Chandra Roy Chowdhry v. Chandi Charan Mitra*(3) where the view was taken

(1) (1916) 38 Ind. Cas. 210.

(2) (1931) A. I. R. (Pat.) 137.

(3) (1902) 7 Cal. W. N. 300.

that in the absence of an agreement where several pleaders have been engaged they should divide among them a single hearing fee of the amount assessed as pleader's fee in the suit. This view, however, was not accepted by the Madras High Court in *Vellanki Ramakrishna v. P. Venkutaramayya*(¹) and does not appear to be tenable on the language of section 4 of the present Act which is different from that of section 28 of the Legal Practitioners Act, 1879, which has been repealed. The matter came before a Division Bench of this Court in *Musammam Babui Radhika Debi v. Ramasray Prasad Chowdhry*(²) and it was held that each pleader engaged was entitled to his fees up to the full fee assessed at the hearing. This decision, by which we are bound, fully supports the view taken in these cases by the Small Cause Court and I would dismiss the applications with costs.

HARRIES, C. J.—I agree.

S. A. K.

Applications dismissed.

REVISIONAL CRIMINAL.

Before Harries, C. J. and Rowland, J.

RANCHI ZAMINDARI COMPANY, LTD.

v.

MAHARAJA PRATAP UDAINATH SAHI DEO.*

Code of Criminal Procedure, 1898 (Act V of 1898), section 145—proceeding under the section, whether can be instituted in cases of dispute relating to possession of minerals—questions relating to title, when can be considered—actual physical possession, nature of—owner of unworked minerals,

*Criminal Revisions nos. 662 and 671 of 1938, from an order of Maulavi A. H. Khan, Subdivisional Magistrate of Ranchi, dated the 24th September, 1938, applications against which were dismissed by T. Luby, Esq., I.C.S., Judicial Commissioner of Chota Nagpur, by his order, dated the 14th November, 1938.

(1) (1916) 38 Ind. Cas. 210.

(2) (1931) A. I. R. (Pat.) 137.

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MANMATHA
NATH
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v.
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NATH
MUKHARJI.

ROWLAND, J.

1939.

December,
20, 21, 22.
January, 6.