Before Mr. Justice E. Jackson and Mr Justice Ainslie.

TAMIZÜDDIN MIRDHA (PLAINTIFF) v. GAFFUR KHAN (DEFENDANT).*

Suit for Contribution—Jurisdiction—Small Cause Court.

A Small Cause Court has no jurisdiction to try a suit for contribution.

Baboo *Najit Chandra Sen* for the appellant.

Baboo *Chandra Madhab Ghose* and *Bama Charan Banerjee* for the respondent.

THE judgment of the Court was delivered by,

JACKSON, J.—This was a suit for contribution. The Subordinate Judge of Dacca, on appeal before him, dismissed the suit on the ground that the suit should have been brought in the Small Cause Court, the amount claimed being below Rs. 500. The ground of special appeal to this Court is that, under the Full Bench Rulings of this Court, in the cases of *Rambuksh Chittangeo* v. *Madhusudan Pal Chowdhry* (1), and *Sripati Roy* v. *Laharam Roy* (?), it has been distinctly held that suits of this description are not cognizable by the Small Cause Court, but they must be preferred in the Civil Court.

The pleader for the respondent, being called upon to state whether he has any argument to offer against this objection, admits that he is unable to maintain the decision. Looking to the whole of the decisions passed by the Full Bench on the above occasion, there seems to be no doubt that all suits for contribution were then directly held to be cognizable by the Civil Court, and not by the Small Cause Court. The Subordinate Judge should follow those decisions in trying this case. We set aside his decision, and remand the case to him for trial on the merits.

Costs will follow the result.

(1) Reference from the Judge of the Small CauseCourt at Kishnaghur, dated January 11th, 1867 ; April 15th, 1867.

(2) Reference from the Judge of the Small CauseCourt at Kishnaghur, dated December 28th, 1866 ; April 15th, 1867.

* Special Appeal, No. 2452 of 1870, from a decree of the Additional Subordinate Judge of Dacca, dated the 14th June 1870, reversing a decree of the Moonsiff of that district, dated the 28th March 1870.