

Before Mr. Justice Kemp and Mr. Justice Glover.

1869
Jan'y. 21.

MAHADEO OJHA (DEFENDANT) *v.* PARMESWAR PANDEY (PLAINTIFF)*

Appellate Court—Judgment.

An Appellate Court is bound to state its reasons for reversing the decision of a lower Court.

Baboo *Ashutosh Chatterjee* and *Jadab Chandra Seal* for appellant.

Baboo *Budhsen Sing* for respondent.

The judgment of the Court was delivered by

GLOVER, J.—It appears to us that the objection taken by the special appellant in this case must succeed. It has been oftentimes ruled by Division Benches of this Court that, when a Court of Appeal reverses the order of a Court of first instance, it is bound to give reasons for so doing in the judgment. In the present case, the Moonsiff gave his reasons at considerable length for believing the plaintiff's suit for possession to be unfounded, but the Judge, without going into, or controverting, any of those reasons, but saying simply that the plaintiff's case appears to him to be a just one, reversed the decision of the Court of first instance, and decreed the plaintiff's suit.

It appears to us that, according to a long current of decisions of this Court, he was not justified in doing so; and that before reversing the orders of his subordinate, he was bound to give his reasons, for which he was induced to do so.

The case must, therefore, go back to the Judge, for him to pass a fresh decision on the merits of the case, with reference to the above remarks.

Costs to follow the result.

Before Mr. Justice Kemp and Mr. Justice Glover.

1869
Jan'y. 23.

RAJ KUMAR SING (PLAINTIFF) *v.* KALI CHARAN SING AND ANOTHER
(DEFENDANTS.)†

Award—Appeal—Act VIII. of 1859, ss. 325 & 327.

An application was made under section 327 of Act VIII. of 1859 to file an arbitration award, and the Court after calling on the opposite party to show cause why it should not be filed, rejected the application. *Held*, that the case did not come within the meaning of section 325, and that the order being simply one "rejecting an application to file an award," was final.

* Special Appeal, No. 2855 of 1868, from a decree of the Officiating Judge of Sarun, dated 1st June 1868, reversing a decree of a Moonsiff of that district, dated the 5th July 1867.

† Miscellaneous Appeal, No. 438 of 1868, from an order of the Subordinate Judge of Patna, dated the 25th July 1868.