

abandoned his case, and must have judgment given against him in this Court. Judgment will be entered for the defendants, and the plaintiff must pay the costs of reserving the question, and stating it for the opinion of this Court, and otherwise arising thereout, or connected therewith.

Attorneys for the Defendants: *Messrs. Berners & Co.*

*B. L. R. Vol. V, p. 28.*

(Appendix.)

The 25th April 1870.

Before Mr. Justice Norman and Mr. Justice Markby.

RAMFAL SHAW,

*versus*

BISWANATH MANDAL and others.

Advocate—Witness.

This was a reference from the First Judge of the Calcutta Small Cause Court on the following question:—

“Whether one, Ramanath Law, who, though an attorney, had acted as advocate for the plaintiffs, and pleaded their case in Court, could be examined as a witness in the case?”

The Judge admitted the evidence on the authority of *Cobbett v. Hutson* (1), and gave judgment in favor of the plaintiffs. The question was reserved at the request of the defendants.

*Mr. Macrae* for the plaintiffs referred to the case above cited, and to Section 14 of the Evidence Act II of 1855, which mentions the only persons who are incompetent to be witnesses.

*Norman, J.*—I think it quite plain that the witness is competent; if there had been any doubt on that point, the doubt would have been removed by a reference to the section of the Evidence Act to which *Mr. Macrae* referred. The plaintiff will be entitled to the costs, in the Small Cause Court,

of reserving the question of stating the same for the opinion of the High Court and of the argument before us.

Attorneys for Plaintiff: *Messrs. Swinhoe & Co.*

Attorneys for Defendant: *Messrs. Sims and Mitter.*

*B. L. R. Vol. V, p. 29.*

(Appendix.)

The 6th May 1870.

Before Mr. Justice Bayley and Mr. Justice Markby.

In the matter of the Petition of RANI UMASUNDARI DEBI.

*Rule Nisi*, No. 332 of 1870.

24 & 25 Vict., c. 104, s. 15—Power of the High Court—Review of Order refusing Petition to sue *in forma pauperis*.

A Court of original jurisdiction has power to entertain an application to review an order refusing a petition for leave to sue *in forma pauperis*.

Under Section 15 of 24 & 25 Vict., c. 104, the High Court set aside an order of a Court of original jurisdiction, refusing to entertain such an application on the ground that the Court had not jurisdiction to entertain it.

In this case Rani Umasundari Debi had obtained a rule *nisi* on a petition, which shewed that the petitioner applied to the Court of the Subordinate Judge of Zilla Midnapore, for permission to bring a suit, *in forma pauperis*, against her husband, for the recovery of alimony; that the said Court, after seeing no reason to refuse the application on any of the grounds stated in Section 304, Civil Procedure Code, fixed the 15th day of January last for receiving such evidence as the petitioner might adduce in proof of her pauperism, and for hearing any evidence which the opposite party might bring forward in disproof of the pauperism of the petitioner: that, being now a resident of Bhowanipore, the petitioner forwarded two of her witnesses from the said place of her residence, with a view that they should give evidence as to her pauperism on the said 15th January, in ample time to reach the Court before the day fixed for hearing; that one of the

(1) 1 E. & B., 11.