

The 13th January 1871

Present:

The Hon'ble J. P. Norman, *Officiating Chief Justice*, and the Hon'ble W. Ainslie, *Judge*.

Splitting of causes—Appeal—Jurisdiction.

Ram Coomar Doss and another (Defendants),
Petitioners,

versus

Bidhoo Mookhee Dossee (Plaintiff), *Opposite Party.*

Baboo Dwarkanath Sein for Petitioners.

No one for Opposite Party

Where a suit for Rupees 13,777 was brought against defendants whose interests were not identical, and the Judge ordered separate trial of the different causes involved, as provided in Section 9, Act VIII. 1859, an appeal by the defendants from the decision in one of the suits valued at Rupees 149 was held not to lie to the High Court.

Note by the Deputy Registrar.—THE original suit was brought by the plaintiff against several defendants whose interests were not identical. The Subordinate Judge of the 24-Pergunnahs, before whom the suit was instituted, being of opinion that the suit was composed of several causes of action, and could not conveniently be tried together, ordered separate trials, and tried each cause separately, as provided in Section 9, Act VIII. of 1859.

The original suit was valued at 13,777 rupees. The trial from the decision in which this appeal has come up involved a claim for possession of one-third of 6 beegahs and 12 cottahs of land, and was valued at 149 rupees and 17 gundas.

The several trials arising out of the original suit were registered and numbered by the Subordinate Judge as separate suits.

It is a matter, therefore, of doubt, whether an appeal from a decree in such a case will lie to this Court and not to the Court of the Zillah Judge.

I beg to refer the point for the orders of the Court.

Norman, C. J.—The appeal does not lie in the High Court.

The 13th January 1871.

Present:

The Hon'ble J. P. Norman, *Officiating Chief Justice*, and the Hon'ble W. Ainslie, *Judge*.

Foreign Territory—Service of notice—Section 60, Act VIII., 1859.

Sonatun Bukshee and others, *Appellants.*

versus

Gopal Chunder Shamunto, *Respondent.*

Letter No. 32, dated the 25th November 1870, from G. A. Pepper, Esquire, Additional Judge of Nuddea, to the Registrar of the High Court.

Where a respondent resides in Chandernagore, *i. e.*, out of British Territory, the notice of appeal should be forwarded to him by post under a registered cover; and if he does not appear, a verified statement should be put in to show that he is at present, or has recently been, residing there.

SIR,—I HAVE the honor to bring to your notice that the accompanying summons sent by the High Court to serve on the respondent, Gopal Chunder Shamunto alias Tincowree Shamunto, has to be served in the town of Chandernagore, and cannot, therefore, be served from this Court, the respondent living in French Territory.

Note by the Deputy Registrar.—THE law which seems to me to apply to a case like the present is Section 60, Act VIII. of 1859, which provides for the service of processes out of British Territory by post.

That perhaps is the course which the Judge should have followed in regard to the notice of appeal (not summons) which he has returned unserved because the respondent is a resident of the Town of Chandernagore; and to ensure service, as well as to procure good evidence of it, the cover enclosing such a process should probably be registered.

To save time this notice may be forwarded to the address of the respondent in Chandernagore under a registered cover.

Norman, C. J.—If the respondent Gopal Chunder Shamunto has not been already so served, notice should be forwarded to him by post under a registered cover; and if the respondent does not appear, a verified statement should be put in to show that the said respondent is at present residing at Chandernagore, or has been living there recently.