

Patna High Court

Jagdip Pandey And Ors. vs Musammat Taibunnissa And Ors. on 1 February, 1923

Equivalent citations: 72 Ind Cas 397

Author: Ross

Bench: Ross

JUDGMENT Ross, J.

1. The only point argued in this appeal is that the Munsif was wrong in refusing to admit in evidence a letter written by Mr. Mackenzie and certain jamabandis which were tendered late. The District Judge agreed with the Munsif and held that these documents were rightly rejected.

2. That this is a ground in second appeal has been held in Talewar Singh v. Bhagwan Das 12 C.W.N. 312 : 8 C.L.J. 147. It is true that it is a matter for the discretion of the Trial Court; hut as was pointed in Ranchhod Hirabhai v. Secretary of State for India 22 B. 173 : 11 Ind. Dec. (N.S.) 697, in such matters of procedure the Court should lean to an interpretation which advances justice rather than to a contrary interpretation. Now in this case these documents had been exhibited in a case under Order XXI, Rule 100 between the parties to the present litigation. There was, therefore, no ground for supposing that they had been fabricated and they evidently had an important bearing on the question at issue in the trial. The Court below, in my opinion, erred in the exercise of its discretion in rejecting these documents. I, therefore, decree this appeal, set aside the decrees of the Courts below and direct that the case be remanded for re-trial by the Munsif after taking in evidence the jamabandis and the letter written by Mr. Mackenzie. Costs will abide the result.