

High Court

O. O. C.

Suit No 657 of 1907

Umabai - Plaintiff

vs

Bhaw Balwant & Co. Defendants

Coram Russell J

(in chambers)

th
11 December 1908.

I have already fixed the hearing of this suit on Monday the 8th of February 1909. The only question now is whether I should now order the Plaintiff to give security for costs, and that depends on the nature of the case. First of all whether it can be said, the suit is a suit for money. Now, I confess, at first sight that it was not, a suit for money within the meaning of these terms. Still when you read

read clause five of the prayer
it is difficult to say how that
it is anything but a claim for
money. "that if necessary, defendant"
"and his guardian, may be ordered"
"to transfer to the plaintiff the right"
"title & interest of the said deceased"
"in the said mortgage and to do"
"such other and further acts as"
"to this Honourable Court may"
"seem necessary to secure the"
"said right, title & interest to the"
"Plaintiff."

If that be so it comes
quite within the judgement of the
Chief Justice and Mr Justice
Butcher, a portion of which I
have already referred to and
repeated in "10 Bombay Law Reports"
Page 337. Therefore it seems that
is the ~~first~~ ^{in the} ~~objection~~ and the next
objection ~~is~~ ^{is} ~~on~~ ^{on} the ground of
the delay in the application.

If

If the defendant is entitled
to security for his costs on the
ground that it is a suit for
money, I really cannot say for
is ~~my opinion~~ ^{that} there has been
such delay as to deprive him
of this right.

As I have already fixed
the case for Monday the 8th
February 1909, I propose to make
an order that the plaintiff do
furnish security to the extent of
£400 within one month from this
date. Costs costs in the cause.
Counsel certified in both applica-
tions.