

## Ishur Das and Others Vs Tota Ram and Another

**Court:** Allahabad High Court

**Date of Decision:** Feb. 26, 1887

**Citation:** (1887) ILR (All) 445

**Hon'ble Judges:** Straight, J

**Bench:** Single Bench

**Final Decision:** Dismissed

### Judgement

Straight, J.

(after stating the facts as above, continued): I need scarcely say, and indeed it was admitted by the vakil for the appellant, that

unless the power of appeal is conferred in terms by the statute, no such power exists. And therefore if, within the four corners of the Revenue Act,

power is not conferred on the parties to go in appeal to the District Judge and from his decision to this Court, there is no appeal. It cannot be

contended that the objections which have now been taken by the appellants were taken at a stage of the Revenue Court proceedings in the matter

of partition which would have made Section 113 applicable. As the objections were not taken until after the scheme of partition had been

approved by the Assistant Collector and confirmed by the Collector of the District, consequently they can only be regarded in the light of

objections to the mode in which it was proposed to make the partition. And if these objections were to the form of partition, an appeal would

undoubtedly have lain to the Commissioner. As I have already said, and desire to emphasize, at the stage of the proceedings when objections were

taken, it was too late to determine questions of title. Accordingly the Assistant Collector cannot be said to have done so; and if the proprietary

rights of the appellants have been interfered with, the Civil Court is open to them. The result of these observations is, that there was no appeal from

the order of the Assistant Collector to the District Judge; and it necessarily follows, therefore, that no appeal lies to me from the order of the

District Judge. The appeal is dismissed with costs.