(1887) 02 AHC CK 0004

Allahabad High Court

Case No: None

Ishur Das and Others		APPELLANT
	Vs	
Tota Ram and Another		RESPONDENT

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.