

**(1914) 06 AHC CK 0022**

**Allahabad High Court**

**Case No:** None

Jagannath and Others

APPELLANT

Vs

Lachman Das and Another

RESPONDENT

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**Date of Decision:** June 5, 1914

**Acts Referred:**

- Provincial Insolvency Act, 1920 - Section 60

**Citation:** (1914) ILR (All) 549

**Hon'ble Judges:** Muhammad Rafiq, J; Chamier, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

Chamier and Muhammad Rafiq, JJ.

Lachman Das was adjudicated insolvent on the 6th of December, 1912. He appears to have made a mortgage of his property on the 11th of April, 1912. The receiver appointed in the insolvency proceedings made a report to the District Judge suggesting that this mortgage should be annulled u/s 36 of the Act, On the 23rd of January, 1913, the District Judge asked the Munsif of Pilibhit to hold an inquiry and report whether the mortgage was made bona fide or not. The Munsif after taking evidence reported that the mortgage had been made bond fide. The District Judge accepted his finding and held that the mortgage must stand. The Act makes no provision for the reference of such a matter to a subordinate court. The District Judge alone had jurisdiction in the matter and should himself decide upon such evidence as may be available whether or not action should be taken to have the mortgage set aside. The District Judge should give the receiver and the creditors an opportunity of being heard in the matter before he arrives at a decision. We set aside the present order that the mortgage is to stand. No order as to costs.