

(1886) 04 AHC CK 0008

Allahabad High Court

Case No: None

Zainab Begam

APPELLANT

Vs

Manawar Husain Khan and
Another

RESPONDENT

Date of Decision: April 27, 1886

Citation: (1886) ILR (All) 277

Hon'ble Judges: Tyrrell, J; Brodhurst, J

Bench: Division Bench

Final Decision: Allowed

Judgement

Brodhurst and Tyrell, J.

The Subordinate Judge, as a first appellate Court, had the appellant's appeal before him. On the day fixed for hearing, and on adjourned dates, the appellant did not attend in person or by pleader. The Subordinate Judge then had but one legal course open to him--to dismiss, the appeal in default (Section 556). It was illegal to try the appeal on the merits. The judgment given in this way is a nullity, and must be cancelled: its existence therefore was and is no bar to the re-admission of the appellant's appeal (Section 558), if it was not barred by limitation or otherwise inadmissible--We must allow this appeal, and direct the restoration to the file of the application for re-admission u/s 558 on the merits, the costs of this appeal being costs in the cause.