

(1880) 02 AHC CK 0007

Allahabad High Court

Case No: None

Shankar Dial

APPELLANT

Vs

Amir Haidar and Others

RESPONDENT

Date of Decision: Feb. 24, 1880

Citation: (1880) ILR (All) 752

Hon'ble Judges: Pearson, J; Oldfield, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Oldfield, J.

The decree-holder, appellant before us, sought to attach certain property in execution of his decree, and the judgment-debtors objected that they held the property, not as their own property, but as superintendents of an endowment to which the property belonged, and they objected to the attachment. The Court of First Instance released the property from attachment on the objections taken. The decree-holder appealed to the Judge, who dismissed the appeal on the ground that, with reference to the value of the subject-matter, it lay to the High Court. The decree-holder has now appealed to this Court. A preliminary objection appears to us to be valid, to the effect that there is no appeal, and that the decree-holder's proper remedy is by regular suit.

2. The objections taken to the attachment were of the nature of those to be dealt with u/s 278 and following sections, Civil Procedure Code, and the remedy for the party dissatisfied is u/s 283 by regular suit. The case is not altered by the circumstance that the objectors were the judgment-debtors. It has been held frequently that the provisions of Section 278 and following sections apply equally to the objections by parties to the suit as by strangers, when their objections are of the nature of those with which those sections deal.--Haris Chandra Gupto v. Srimati Shashi Mala Gupti 6 B.L.R. 721: In the matter of the petition of J.B. Rainey 6 B.L.R. 725: Chunder Kant Surmah v. Bungshee Deh Surmah 6 W.R. 61. We dismiss the

appeal with costs.