
(1876) 06 AHC CK 0009

Allahabad High Court

Case No: None

Timalkuari

APPELLANT

Vs

Ablakh Rai and Others

RESPONDENT

Date of Decision: June 26, 1876

Citation: (1875) ILR (All) 254

Hon'ble Judges: Turner, J; Spankie, J

Bench: Division Bench

Judgement

1. The appellant rightly contends that the Assistant Collector had no power to make the reference, and that consequently the Judge's opinion cannot be regarded as authoritatively binding on the Assistant Collector and the parties to the proceeding. It is not necessary for us to go on to consider the validity of the second plea, but we may notice that the opinion recorded by the Judge appears to be in conformity with the ruling of the Privy Council in Unnoda Persaud Mookerjee v. Kirsto Coomar Moitro 15 B.L.R. 60 note : S.C. 19 W.R. 5; adopting the view taken by the Full Bench of the Bengal High Court in their decision in Poulson v. Madhusudan Pal B.L.R. Sup. Vol. 101 : S.C. 2 W.R. Act X Rulings, 21, in which it was held that the analogous provisions of Section 14, Act XIV of 1859, do not apply to suits instituted under Act X of 1859, because the latter is a special law. On similar grounds it was ruled in Mahomed Bahadur Khan v. The Collector of Bareilly L.R. 1 Ind. App. P.C. 167 : S.C. 13 B.L.R. 292 that the provisions of the Limitation Law relating to disability do not apply to enlarge the period of limitation prescribed by Act IX of 1859. We must, however, declare the reference to the Judge has no legal effect and his opinion cannot be held binding on the parties. We order the Judge to return the reference to the Assistant Collector, that it may be submitted through the proper channel should the Collector think fit to make a reference, and we shall direct each party to bear his own costs.