

Kali Charan Ghose Vs Sreemutty Rani Sarajini Debi and Others

Court: Calcutta High Court

Date of Decision: Nov. 19, 1924

Citation: 87 Ind. Cas. 168

Hon'ble Judges: B.B. Ghose, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

B.B. Ghose, J.

The petitioner before this Court was the claimant in the claim case. His claim was rejected on the ground that it could not

proceed as the property with regard to which the claim had been prepared had already been sold in execution of the decree. It appears that the

claim was put in shortly before the date of the sale of the property. The petitioner must have satisfied the Court that he had not designedly or

unnecessarily delayed in making his claim. Afterwards, the petitioner applied for an adjournment of the sale; but his application was rejected and

the sale took place. The petition of claim, subsequently came up for hearing and it ""was, as already stated rejected.

2. It is contended by the learned Vakil for the petitioner that the petitioner"s case was not heard not on account of any fault of his but because of

the Court rejected his petition for stay of the sale pending the disposal of his claim case and that he was thus placed in a disadvantageous position.

It seems to me, however, that there was no help for the situation that arose. After a property which had been attached in execution of a decree

has been sold, it seems to me that the Court has no jurisdiction to hear an application putting forward a claim which, if successful, would have only

one result, namely, the release of the attached property. That position cannot take place after the property has been actually sold. As the learned

Munsif observes, the claimant has other remedies and he may possibly have recourse to such remedy as he may be advised. Under these

circumstances, the Rule must be discharged. I make no order as to costs.