
(1910) 01 CAL CK 0018

Calcutta High Court

Case No: None

Adhar Mandal and
Others

APPELLANT

Vs

Keshab Chandra Mana

RESPONDENT

Date of Decision: Jan. 27, 1910

Citation: 5 Ind. Cas. 483

Hon'ble Judges: Sharf-ud-din, J; Brett, J

Bench: Division Bench

Judgement

1. This is an appeal against an order of the District Judge of Midnapur dismissing an appeal against an order in certain execution proceedings passed by the Court of first instance, on a review of a previous order made in those proceedings. The learned Judge has held that no appeal lies against the order of review and that, therefore, the appeal to him must be dismissed. We have heard the learned pleaders on both sides and we do not think that the view of the law taken by the learned Judge is correct. The order appealed against to him was, no doubt, passed on a review of a previous order; but whether it was so passed or not, if was an order u/s 244, Civil Procedure Code, relating to the execution of a decree, and as such, was certainly open to appeal. The result, therefore, is that we set aside the judgment and order of the lower appellate Court, decree the appeal and direct that the case be sent back to that Court for re-hearing according to law. Costs will abide the result. We assess the hearing fee at two gold mohurs.