

(1879) 12 CAL CK 0002

Calcutta High Court

Case No: None

Gyamonee

APPELLANT

Vs

Radha Romon

RESPONDENT

Date of Decision: Dec. 4, 1879

Citation: (1880) ILR (Cal) 592

Hon'ble Judges: Prinsep, J; Morris, J

Bench: Division Bench

Judgement

Morris, J.

The preliminary objection taken, that no appeal lies against the order of the Subordinate Judge in this case, must prevail. Clearly, since a decree-holder under the Act includes any person to whom a decree is transferred, and by inference any person to whom a share in a decree is transferred, the question raised is a question as between two co-decree-holders. This Court is not called upon now to determine whether Radha Romon was brought rightly or wrongly on the record as a party, and allowed to take out execution. It must be taken that he has been rightly allowed. This then being so, we consider that the provision of Clause (c) Section 244, Act X of 1877, does not apply to such a case as this. There is no question arising between the parties to the suit in which the decree was passed, or their representatives. This is practically a difference only between one decree-holder and another decree-holder.

2. The appeal is dismissed with costs.