
(1880) 05 CAL CK 0003

Calcutta High Court

Case No: None

Nanuk Pershad

APPELLANT

Vs

Lalla Nitya Lall

RESPONDENT

Date of Decision: May 17, 1880

Citation: (1881) ILR (Cal) 40

Hon'ble Judges: White, J; Maclean, J

Bench: Division Bench

Judgement

White, J.

This is an appeal against an order of the District Judge refusing an application which was made by the appellant to recall a certificate which had been granted to Lalla Nitya Lall, the respondent, under Act XXVII of 1860, and to grant under that Act a certificate to the appellant, to collect the debts of one Guru Proshad, deceased.

2. We think that, in such a case as this, no appeal lies to this Court. A District Judge appears to have jurisdiction to entertain an application to recall a certificate which he has granted, although it is by no means clear from the cases which have been cited what is the basis of his jurisdiction, for Act XXVII of 1860, which alone gives him jurisdiction to grant a certificate, is altogether silent on the subject.

3. But whatever may be the origin of his jurisdiction, we are of opinion that where he has refused to recall a certificate which he has granted, no appeal lies. The Act of 1860, of course, gives no appeal, and looking to the nature of the proceeding, the order being one merely of refusal, does not seem to be of an appealable character. An application to recall a certificate is in the nature of an application to the Judge to review his former decision, and when he refuses the application, he does not appear to do more than decline to alter his first decision.

4. The appeal is dismissed with costs.