

(1869) 03 CAL CK 0010

Calcutta High Court

Case No: None

Mahant Dhanraj Giri Goswami

APPELLANT

Vs

Sripati Giri Goswami

RESPONDENT

Date of Decision: March 25, 1869

Judgement

1. The order of Mr. Boxwell appears irregular. In the first place the grant of the certificate under Act XXVII of 1860, does not decide the title to the land; and if it did, an order of the Civil Court must be executed by that Court, and not by the Magistrate. Mr. Boxwell appears to have been misled by Mr. Barton's order, which was also irregular. Mr. Barton should have declined to interfere, except to keep the peace, and left the parties to apply to the Judge under the provisions of Act XIX of 1841 to appoint a curator, or make some order with regard to the property, till the right of succession should be determined. The question which was not of a disputed possession, but of a right of succession, could not be properly dealt with u/s 318 of the Code of Criminal Procedure. We quash Mr. Boxwell's order.