

(1914) 07 CAL CK 0028**Calcutta High Court****Case No:** None

Musammat Balia Koer

APPELLANT

Vs

Bandh Ram Sahu and Others

RESPONDENT

Date of Decision: July 27, 1914**Citation:** 38 Ind. Cas. 512**Hon'ble Judges:** Stephen, J; Mullick, J**Bench:** Division Bench**Judgement**

1. In this case the District Judge has made an order: he says u/s 5 of Regulation V of 1799. In form it appears more like an order u/s 4. He has no jurisdiction to make such an order, for no regular suit has been brought by the persons who claim the property with which he has dealt. It is order is, therefore, ultra vires and must be set aside. The Court will then be in possession of the property claimed by the two persons who consider themselves entitled to it on intestacy. His proper course will be to return the property to the authority from which it came, namely, to the Police. We may observe that it will then be open to the District Magistrate to make over the property to one of the parties or to some other person, taking signature from them that it should be held in such a way as to be available for any person who may succeed in establishing his right thereto.

2. The Rule is accordingly made absolute.

3. We make no order as to costs.