

(1870) 03 CAL CK 0023

Calcutta High Court

Case No: None

In Re: J.C. Nesbitt and
F.C. Briant

Vs

APPELLANT

RESPONDENT

Date of Decision: March 3, 1870

Judgement

Macpherson, J.

In the above cases applications were made--in the former case, by Mr. Branson, on the 2nd February, and in the latter, by Mr. Evans, on the 3rd March 1870--under section 212 of the Indian Succession Act, that letters of administration might be granted to the attorney of an absent executor. In both cases it appeared that the attorney, as well as the executor, was out of the jurisdiction of the Court. In the goods of Leeson 1 S. & T. 463 and other cases were cited in support of the application. The Court refused to grant the applications, holding that, under sections 212 and 213 of the Indian Succession Act, the Legislature intended that the attorney should be within the jurisdiction of the Court, if the executor was not within it. That by the Act there was a special procedure, and the English cases cited did not apply.