

**(1869) 04 CAL CK 0033**

**Calcutta High Court**

**Case No:** Miscellaneous Special Appeal No. 72 of 1869

Bhubaneswari Debi

APPELLANT

Vs

Mahendra Nath Chowdhry, Legal  
Representative of Nabakrishna  
Chowdhry

RESPONDENT

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**Date of Decision:** April 28, 1869

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**Judgement**

Loch, J.

We think the order passed by the Judge is not correct. The question has been determined by a Full Bench in the case of Bipro Das Gossain v. Chunder Sekhar Buttacharjee Case No. 583 of 1666, May 31st 1867 : see B.L.R. Sup. 718, in which it is held that "if upon the application for review or the petition of appeal, the person in whose favor the original decree was given, appears in person or by vakil (whether voluntarily or upon service of notice) to oppose the application, and files a vakalatnama for the purpose of preventing the appellate Court or the Court of Review from setting the judgment aside, we think that within the fair interpretation of the words, such act being an act of the person in whose favor the judgment has been given for the purpose of preventing it from being set aside, is an act done for the purpose of keeping the judgment in force." The facts in this case are similar to those set forth in the judgment just quoted. We, accordingly, set aside the order of the lower appellate Court, and restore the order of the Munsiff.