

(1896) 06 AHC CK 0004
In the Allahabad High Court

Amar Nath

APPELLANT

Vs

Raj Nath

RESPONDENT

Date of Decision : 12-06-1896

Acts Referred:

Citation : (1896) ILR (All) 453

Hon'ble Judges : Blair, J; Banerji, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Blair and Banerji, JJ.—This is an appeal from the order of the learned District Judge of Allahabad appointing a receiver of the property in suit in a case to which the present appellant and respondent are parties. That is a case which is pending in the Court of the Subordinate Judge. The learned Subordinate Judge had conceived the case to be one in which the property needed the exceptional protection provided for by Section 503 of the Code of Civil Procedure. He considered the circumstances so exceptional that he considered it expedient to apply the exceptional remedy of appointing a receiver in the suit. He was not, however, empowered by law to make such an appointment himself without the sanction of the District Judge to whom he was subordinate. He accordingly forwarded to the District Judge a nomination of the person he considered fit for such appointment, and submitted that person's name with First Appeal from order No. 35 of 1896 from an order of J. Denman, Esq., District Judge of Allahabad, dated the 18th April 1896 the ground for the nomination to the District Court. It was open then under s. 505 to the District Judge to authorize the Subordinate Judge to appoint the person so nominated, or "pass such other order as the District Court thinks fit." It was contended before us on behalf of the appellant that these words in no way authorize a District Judge to nominate upon his own motion any person to be a receiver and himself to appoint such person as receiver. On the other hand, our attention was called to the wide generality of the words used. We think, however, that we ought to apply to this,

as to other provisions of Acts, the principle that large general words should be read in connection with, and as qualified and restricted by, the more specific words which stand in collation with them. It seems to us therefore that the District Judge could either authorize or refuse to authorize the appointment of the person nominated, could regulate his functions as set forth in Section 503 at its discretion, or could determine whether the appointment of a receiver was at all expedient or necessary. We think that if the Legislature had intended to confer on a District Court the power of appointing without nomination by a Subordinate Court any person as receiver, appropriate words for that purpose would have been used in the Act. The expression used in Section 505 is not that the District Court may appoint, but may authorize the Subordinate Judge to appoint. Those words, it seems to us, are inconsistent with the wide powers contended for by the respondent. The decision of the first point urged on behalf of the appellant renders the decision of the other points unnecessary. We allow the appeal and set aside the order of the District Judge with costs.