

(1924) 06 CAL CK 0002
In the Calcutta High Court

Amarendra Nath Laha and Another

APPELLANT

Vs

S. Banerjee and Co.

RESPONDENT

Date of Decision : 27-06-1924

Acts Referred:

Citation : AIR 1924 Cal 1168 : 84 Ind. Cas. 1022

Hon'ble Judges : C.C. Ghose, J

Bench : Division Bench

Judgement

C.C. Ghose, J.—This is an application for an order on the garnishees, Messrs. Gillanders Arbuthnot & Co requiring them to pay to the Sheriff of Calcutta the sum of Rs. 10,000 attached in their hands by an order dated the 10th April, 1924. The application is opposed by the garnishees, and it is stated on their behalf that they are ready and willing to pay in such sum as was arrived at, on adjustment of accounts between themselves and the New Eastern Coal Agency Co. Ltd., being a company which is one of the partners of the defendant firm. The garnishees state that barring a sum of Rs. 1,295-6-5 no other sum is due and owing to the New Eastern Coal Agency Co., Ltd., and that the plaintiffs are only entitled to an order as is prayed for in respect of the said sum of Rs. 1,295-6-5. The plaintiffs contend that on the date the attachment was effected, there was due and owing to the judgment-debtors a sum of more than Rs. 10,000 and that after the date of the attachment the garnishees were not entitled to deduct from the balance in their hands on the date of the attachment the various sums appearing in Exhibit C of the affidavit of Edwin Greaves sworn on the 17th June, 1924. But I have to take into account the terms of the cash credit agreement dated the 11th August, 1922, between the New Eastern Coal Agency Co. Ltd., and Messrs. Gillanders Arbuthnot & Co., who are the garnishees, and in my opinion the plaintiffs cannot by means of the attachment stand in a better position as regards the garnishees than the judgment-debtors did; another words, the plaintiffs could only obtain what the judgment-debtors could honestly give them. See in this connection *In Re General Horticultural Co.* (1886) 32 Ch. D. 512; *Cf. Glegg v. Bromley* (1912) 3 K.B. 474; *Sinnott v. Bowdon*

(1912) 2 Ch. 414. Now could the judgment-debtors, having regard to the cash credit agreement, give to the judgment-creditors any sum in excess of the amount mentioned in the affidavit of Edwin Greaves? In my opinion they could not; and the result therefore is that there will be an order such as is prayed for by the plaintiffs in respect of the sum of Rs. 1,295-6-5 now in the hands of Messrs. Gillanders Arbuthnot and Co. The plaintiffs will be entitled to add the costs of this application to their claim; Messrs. Gillanders Arbuthnot and Co. will pay their own costs.