

(1869) 02 CAL CK 0023
In the Calcutta High Court
Case No : Rule Nisi or Motion No. 128 of 1869

Amra Nashya

APPELLANT

Vs

Gagan Shutar

RESPONDENT

Date of Decision : 16-02-1869

Acts Referred:

Citation : (1869) 02 CAL CK 0023

Judgement

Bayley, J.—This rule must be made absolute with costs. It was granted for the other party to show cause why the order of the Judge should not be set aside for want of jurisdiction. It is quite clear that the application was made to the Collector, u/s 25, Act X of 1859, and was decided under that section; and, consequently, no appeal lay to the Judge.

2. It is said by the opposite party that there was only a misquotation of the section; and that, in fact, the case was decided under clause 5, section 33 of that Act. But such does not appear to us to be the case. The two sections are quite distinct; and on any application made and decided, as this was u/s 25, no appeal lies to the Judge.

3. We would further observe that the admission of the appeal on the 27th May 1868, from a decision of the Collector of the 30th June 1864, on the ground that Act X of 1859 was not then sufficiently understood, was not a proper reason; and as the delay itself was not explained, the Judge's order admitting the appeal was incorrect. The rule is made absolute with costs.