
(1899) 06 CAL CK 0022
In the Calcutta High Court

Amrita Lal Ghose

APPELLANT

Vs

Shrish Chunder Chowdhry and Others

RESPONDENT

Date of Decision : 19-06-1899

Acts Referred:

Companies Act, 1882 — Section 58

Citation : (1899) ILR (Cal) 944

Hon'ble Judges : Francis W. Maclean, J; Banerjee, J

Bench : Division Bench

Judgement

Francis W. Maclean, K.C.I.E., C.J.—On the preliminary question whether an appeal lies, I see no reason for confining the last sentence of Section 58 of the Companies Act, 1882, to the case suggested by respondent's Counsel, namely, the case in which an issue has been directed upon a question of title. The words apply to the whole section. The case of *In the matter of the petition of Luchmee Chand I.L.R (1882) ., 8 Cal., 317*, was a case of an appeal, and it was not suggested that an appeal did not lie. I admit that is not an authority against the present respondent, as the point was not raised. In my opinion the appeal lies.

2. Upon the merits, I think that, without deciding upon this appeal any question of title one way or the other, the learned Judge in the Court below, in the exercise of his judicial discretion, was amply justified in refusing the application. He could only make the order asked for, if satisfied of the justice of the case," and, I think, there was quite sufficient upon the undisputed facts to throw doubt upon that. In this view, it is unnecessary to go into the facts which are set out in the petition of the Directors of the Company facts as to which there is apparently no substantial dispute. The Judge was right in refusing the application to register, and the question of title must be fought out in a regular suit. The appeal is dismissed with costs.

Banerjee, J.

3. I concur.