
(1908) 10 BOM CK 0015
In the Bombay High Court
Case No : Appeal No. 16 of 1908

Bai Mani

APPELLANT

Vs

Khimchand Gokaldas

RESPONDENT

Date of Decision : 07-10-1908

Acts Referred:

Citation : (1908) 10 BOMLR 1037

Hon'ble Judges : Basil Scott, C.J;Batchelor, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Basil Scott, C.J.—This is an appeal from an order of the District Judge of Surat in Miscellaneous Application No. 33 of 1908 of the District file. That application was one in which the District Judge considered the recommendation of the First Class Subordinate Judge of Surat that the defendant Khimchand should be appointed a receiver in a suit No. 35 of 1907, and, in case of the recommendation not being accepted, that the Nazir of his Court should be appointed.

2. The District Judge having considered, the recommendations refused to authorise the Judge to appoint either of the persons so recommended.

3. The application was made to him under the proviso to Section 505 of the Civil Procedure Code, and under that section he had power to authorise the Subordinate Judge to appoint one of the persons recommended and he had also power to pass any other order. The order which he decided to pass was to refuse to allow the appointment of any receiver at all.

4. We are of opinion that that was an order passed u/s 505, and not u/s 503. It is, therefore, an order which is not appealable not being specified in the list of orders in Section 588. We are supported in this conclusion by the decision of Birajan Kooer v. Ram Churn Lall Mahata I L R (1881) Cal. 719 We, therefore, think, that the preliminary objection which has been taken that no appeal lies is a good one and we dismiss the appeal with costs.