

(1887) 04 CAL CK 0002
In the Calcutta High Court

Basudeo Narain Singh and Others

APPELLANT

Vs

Seology Singh

RESPONDENT

Date of Decision : 18-04-1887

Acts Referred:

Citation : (1887) ILR (Cal) 640

Hon'ble Judges : Wilson, J;Tottenham, J;Prinsep, J;Norris, J;Mitter, J

Bench : Full Bench

Judgement

1. The question whether the decree-holder was entitled to sell the whole 8 annas or a 3 annas 12 dams share of the mortgaged premises, was decided by an order, dated 7th September, 1885. The Court which made the order had full authority to make it u/s 244 of the Code of Civil Procedure. By reason of that order not being appealed from, it became final, The question disposed of by it is, therefore, no longer an open question between the decree-holder and the appellants before us. We, therefore, set aside the decision of the lower appellate Court so far as the appellants are concerned. We do not interfere with the decision of the lower appellate Court so far as the original judgment-debtors are concerned, as they have not appealed against it.

2. The appellants are entitled to recover the costs of this appeal and in the lower appellate Court from the respondents. We assess the costs of both hearings at Rs. 50.