

(1906) 01 CAL CK 0010

In the Calcutta High Court

Case No : Appeal from Original Decree No. 483 of 1904

Chandi Charan Mandal and Others

APPELLANT

Vs

Banke Behari Mandal and Others

RESPONDENT

Date of Decision : 25-01-1906

Acts Referred:

Citation : (1906) 01 CAL CK 0010

Judgement

Maclean, C.J.—I think the order made by the learned District Judge of 24-Pergunnahs is quite misconceived. He has granted letters of administration to the estate of one Nilmadhab Mandal, who died more than 20 years ago, and whose Will was proved after his death by his wife, the executrix, also more than 20 years ago. Under that Will, she took the whole of the estate subject to certain annuities and that is now more than 20 years ago. She is now dead and, after the lapse of this long period, the present Respondent, as heir of the deceased Nilmadhab Mandal, comes and asks for letters of administration to his estate. Now what is there to administer? Not a tittle of evidence has been given to show what it is. The Court may properly presume, in the absence of any thing to the contrary and after this long lapse of time that the estate has been administered. The only ground upon which the learned Judge bases his order is that the estate has not been completely administered. He says that para. 6 of the Will contemplates some administration after the death of the widow, the executrix, but when we look at para. 6 of the Will, we find that it does not relate to his own property but only contains a direction to the shebait in relation to certain properties of which he himself had been a shebait. The property passed to the widow many years ago. There is, therefore, nothing to administer, in the true sense of the term, to the estate of the deceased Nilmadhab Mandal and the order of the lower Court, therefore, must be discharged with costs which we assess at two gold mohurs.