

(1907) 03 CAL CK 0005
In the Calcutta High Court
Case No : Rule No. 3856 of 1906

Chandra Kumar Nath

APPELLANT

Vs

Kamini Kumar Ghose

RESPONDENT

Date of Decision : 04-03-1907

Acts Referred:

Citation : (1907) 03 CAL CK 0005

Judgement

Maclean, C.J.—We think this case is governed in principle by the Full Bench decision in the case of Paresh Nath Singha v. Nabo Gopal Chattopadhyaya I. L. R. 29 Cal. 1 (F. B.) (1901), and the case of Narain Mandal v. Sourindra Mohan Tagore I. L. R. 32 Cal. 107 (1904). In the latter case the learned Judges declined to follow the case of Abed Mollah v. Diljan Mollah I. L. R. 29 Cal. 459 (1902), which apparently is the only authority in favour of the view now urged by the present objector. They treated the latter case as contrary in principle to the view expressed in the Full Bench case Paresh Nath Singha v. Nabo Gopal Chattopadhyaya I. L. R. 29 Cal. 1 (F. B.) (1901), and in the two cases Binodini Dassi v. Peary Mohon Haider 8 C. W. N. 55 (1903), Kunja Behary Mondal v. Shambhu Chandra Roy 8 C W. N. 232 (1908). We, therefore, think that the rule must be made absolute and the order of the Munsif rejecting the application set aside, and we direct that the Munsif do accept the application and deal with it according to law. The Petitioner will have the costs of the rule, hearing fee one gold mohur.