
(1899) 04 AHC CK 0005
In the Allahabad High Court

Jhanday Lal

APPELLANT

Vs

Sarman Lal

RESPONDENT

Date of Decision : 05-04-1899

Acts Referred:

Citation : (1899) ILR (All) 291

Hon'ble Judges : Banerji, J;Aikman, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Banerji and Aikman, JJ.—The preliminary objection raised by Mr. Ghulam Mujtaba that no appeal lies, must prevail. An order was made against the respondent for attachment before judgment u/s 485 of the Code of Civil Procedure. An appeal was preferred from that order under Clause (24) of Section 588 of the Code, and the Lower Appellate Court made an order of remand u/s 562. This order of remand is the subject-matter of the appeal before us. The last clause of Section 588 provides that orders passed in appeal under that section shall be final. The order appealed from is an order passed u/s 588, and therefore it is final according to the provision referred to above. It is true that Section 588 allows an appeal from an order passed u/s 562. But the order of remand from which an appeal is allowable must be an order which was not passed u/s 588. The last paragraph of the section must be read as controlling the whole section and as barring a second appeal, where an appellate Court has made an order, whether for dismissing the appeal or decreeing the appeal or remanding the case before it. This view is supported by the ruling of the Calcutta High Court in Mathura Nath Ghose v. Nobin Chandra Kundu Biswas ILR (1897) Cal. 774, with which we entirely agree. We dismiss the appeal with costs.