
(1916) 03 AHC CK 0009
In the Allahabad High Court

Muni Lal and Others

APPELLANT

Vs

Jagannath, minor, through Sumirta Kuar and Others

RESPONDENT

Date of Decision : 07-03-1916

Acts Referred:

Citation : AIR 1916 All 338(2) : 33 Ind. Cas. 735

Hon'ble Judges : Walsh, J;Piggott, J

Bench : Division Bench

Judgement

1. This is an appeal from an order refusing to appoint a Receiver during the pendency of a suit. A question has been raised before us whether the appeal lies. We find there is clear authority of the Calcutta High Court in two reported cases, namely Boidya Nath Adya v. Makhan Lal Adya 17 C.680 and Khagendra Narain Singh v. Shashadhar Jha 31 C. 495, in support of the proposition that an appeal does lie, and the wording of the Code seems wide enough to admit a right of appeal. We see no good reason for dissenting from the above decisions.

2. As regards the merits of this appeal, we have heard both parties. We think that the appellants in this Court have failed to show sufficient cause for the appointment of a Receiver and such appointment might, under the circumstances of the case, be practically inconvenient for both parties. At the same time, we think that cause has been shown for some sort of an order restraining the defendants from dealing with the property in suit during the pendency of the suit. We have finally decided to pass an order in the following terms:

(1) The defendants to file a list, supported by an affidavit, of all jewellery and ornaments received by them from and belonging to Khunnu Lal and now in their possession. Such a list to be filed in Court within a month of the receipt of the record by the lower Court.

(2) The business OF the firm Khunnu Lal-Jagan Nath to be carried on as usual, a list of all assets, stock-in-trade, book debts to be filed in Court within a month.

(3) The defendants to certify all realizations of book debts, and all payments to

creditors to the Court every month during the pendency of the suit.

(4) The defendants to undertake not to part with any property, moveable or otherwise received by them from and belonging to Khunnu Lal, and now in their possession, until the final determination of the suit, or further order, and the plaintiffs to compensate the defendants for any loss which they may suffer during the pendency of the suit by reason of this order; such compensation to be awarded by the Court hearing the suit in the event of the plaintiffs' suit being dismissed.

(5) Costs here and hitherto to be costs in the cause.

3. We substitute this order for the order of the Court below. Let the record be returned.