

(1896) 12 AHC CK 0017
In the Allahabad High Court

Nathu Wilson

APPELLANT

Vs

C.H. McAfee and Another

RESPONDENT

Date of Decision : 03-12-1896

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 2

Citation : (1897) ILR (All) 131

Hon'ble Judges : John Edge, J;Burkitt, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

John Edge, Kt., C.J. and Burkitt, J.—This is an appeal from an order under the Indian Trusts Act, 1882 (Act No. II of 1882) refusing to remove a trustee. Mr. Ryves has objected that no appeal lay. Mr. Banerji contends that the order was a decree, as that word is defined in Section 2 of the Code of Civil Procedure. So far as we are aware this point has never been decided. The case of Mohima Chunder Biswas v. Tarini Sunker Ghose ILR 19 Cal. 487 is not of much assistance, as in that case Act No. VIII of 1890, which was the Act in question, did provide for appeals in certain cases. We think it would be stretching the definition of "decree" in Section 2 of the CPC to hold that it included a refusal to dismiss a trustee. We are of opinion that the appeal did not lie, and we dismiss it with costs.