

(1902) 05 CAL CK 0020
In the Calcutta High Court

Ratan Mahanti

APPELLANT

Vs

Khatoo Sahoo

RESPONDENT

Date of Decision : 01-05-1902

Acts Referred:

Civil Procedure Code, 1882 — Section 223, 224, 229(A), 229(B)

Citation : (1902) ILR (Cal) 400

Hon'ble Judges : Pratt, J;Geidt, J

Bench : Division Bench

Judgement

Pratt and Geidt, JJ.—Ratan Mahanti and others, holders of a decree in the Court of Small Causes at Balasore, obtained an order, dated the 27th September 1901, directing that a robocari be sent to the Raja of Killa Mayoorbhunj through the Assistant Superintendent of the Tributary Mahals, Balasore, with a copy of the decree and of any order which may have been passed in execution of the same and a certificate of non-satisfaction. This order purports to have been passed under Sections 223 and 224 of the Code of Civil Procedure.

2. The judgment-debtor has obtained this Rule calling upon the decree-holders to show cause why the order complained of should not be set aside. No cause has been shown. It appears that this Court has on more than one occasion decided that the Tributary Mahals of Orissa, of which Mayoorbhunj is one, do not form part of British India; and this ruling has been accepted by the Secretary of State for India in Council, as appears from p. 119 of Vol. I of Mr. Aitchison's work entitled "A Collection of Treaties, Engagements and Sanads." Under Sections 229 (A) and 229(B) of the Code, no decree by a Court in British India can be sent for execution into a territory such as Mayoorbhunj without prior notification in the India Gazette as specified in these sections. No such notification appears to have been issued. The Judge of the Small Cause Court at Balasore had therefore no jurisdiction to make the orders, which he did in this case. The view we take is in accordance with that expressed in the case of *Kastur Chand Gujar v. Parsha Mahar* I. L. R (1887) Bom. 230.

3. The Rule is accordingly made absolute, and the order complained of is set aside with costs.