

(1909) 08 CAL CK 0006
In the Calcutta High Court

Srimati Mathuria Debi

APPELLANT

Vs

Shib Dyal Singh Hazari

RESPONDENT

Date of Decision : 18-08-1909

Acts Referred:

Citation : 3 Ind. Cas. 430

Hon'ble Judges : Richardson, J; Chitty, J

Bench : Division Bench

Judgement

1. A preliminary objection arises with regard to this appeal that no appeal lies against the order of the Subordinate Judge dated the 17th June 1909, which is only an order that a Receiver should be appointed and not an order appointing a Receiver. We have referred the learned Counsel for the appellant to the case of Birajan Kooer v. Ram Churanhall Mahata 7 C. 719 : 9 C.L.R. 303 in which an opinion was expressed by a Bench of this Court that in such a case no appeal lies. The learned Counsel for the appellant, therefore, asks our leave to be allowed to withdraw this appeal and his request is not opposed by the learned Counsel for the respondent provided his costs are paid.

2. We, accordingly, order that the appeal is allowed to be withdrawn. The appellant must pay the respondent, costs of the appeal. We fix the hearing fee at 15 gold mohurs.

Rule No. 2431 of 1909.

3. This rule which was issued on the 24th June 1909 will, under the circumstances, also be discharged. We make no order as to costs.

4. Let the record be sent back without delay.