

(1878) 04 CAL CK 0007
In the Calcutta High Court

Syud Mahomet Hossein and Others

APPELLANT

Vs

Hadzi Abdullah and Others

RESPONDENT

Date of Decision : 10-04-1878

Acts Referred:

Citation : (1878) ILR (Cal) 727

Hon'ble Judges : McDonell, J;Ainslie, J

Bench : Division Bench

Judgement

Ainslie, J.—The Registrar of Deeds having refused to register a certain document, an application was made in 1872 to the District Judge under Act VIII of 1871. On 23rd August 1872 the District Judge rejected the petition on the ground that the execution of the deed had not been proved. In September 1872 Reasut Hossein applied for a review of judgment, and on the 19th September 1872 the District Judge issued a rule calling upon the opposite party to show cause why the review should not be admitted. On the 4th January 1873 the rule was made absolute, the review admitted, and the cause set down for further hearing. This order of the 4th January 1873, therefore, had the effect of cancelling the original order of the Judge and re-opening the proceedings commenced by the petitioner in 1872 u/s 74 of Act VIII of 1871.

2. The final order of the Judge on that application was made on 20th December 1877, when Act VIII of 1871 had been repealed. It was entitled as a review of judgment in suit No. 1 of 1872. By Section 2 of Act III of 1877, which came into force on the 21st April 1877, Act VIII of 1871. was repealed; but by the provisions of the General Clauses Act (Act I of 1868, Section 6), the repeal of that Act does not affect any proceedings commenced before the repealing Act shall have come into operation. The consequence is that these proceedings having commenced before Act III of 1877 came into operation, must be governed by the provisions of the Act in force at the time when they were instituted,—namely, Act VIII of 1871. Section 76 of Act VIII of 1871 contains instructions for proceedings of the Court on a petition of a person whose

application for registration has been refused, and concludes with these words that no appeal lies from any order under this section. The procedure under the present Registration Act is altogether different from that under the Act of 1871, and we have no doubt that the case must be governed by the former Act. Therefore, the appeal cannot be entertained.