

Banarsi Das and ors. Vs. Banarsi Das and ors.

Banarsi Das and ors. Vs. Banarsi Das and ors.

SooperKanoon Citation : sooperkanoon.com/467529

Court : Allahabad

Decided On : Jan-26-1912

Reported in : 14Ind.Cas.416

Judge : George Knox and ;Griffin, JJ.

Appellant : Banarsi Das and ors.

Respondent : Banarsi Das and ors.

Judgement :

1. This is an appeal from an order passed on an application presented by Banarsi Das and others, who wished to be declared insolvents under the provisions of Section 3 of Act III of 1907. The case appears to have gone so far that, on the 18th of November 1910, the Court had declared its intention to hear the petition. Upon that date, the applicants said that their witnesses were not present and so they could not go on with their case. The Court thereupon directed them to pay Rs. 15 to the opposite party. This they did not pay. The Court appears to have overlooked the provisions of Section 14, Sub-sections (2) and (3) of Act III of 1907. Whether the witnesses were or were not present, it was incumbent on the Court to examine the debtor. After the Court had examined the debtor in the presence of the creditor, then it was for the Court to consider whether sufficient cause had been shown to grant time to the debtor to produce further evidence. We do not consider the order passed by the learned Judge in any other light. It was the duty of the Court to examine the debtor. We, therefore, allow the appeal, set aside the

order of the 18th of November 1910, and send back the case to the Court below with directions to carry out the procedure as laid down in Section 14 of Act III of 1907. We make no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com