

Abdool and ors. Vs. Mahamed

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Court : Chennai

Decided On : Feb-23-1891

Reported in : (1891)ILR14Mad404

Judge : Muttusami Ayyar and ;Parker, JJ.

Appellant : Abdool and ors.

Respondent : Mahamed

Judgement :

1. Two preliminary objections are taken.
2. As to limitation we observe that the appeal time expired during the annual vacation of the High Court, and the appeal petition was presented on the first day the Court re-opened. It is, therefore, in time--Reference under Forest Act V of 1882 I.L.R., 10 Mad., 210.
2. The next objection is that no evidence was recorded under Section 72 of the Insolvent Act, and under Section 73 we are not at liberty to refer to the notes of evidence taken by the learned Commissioner.
3. It has been so held in several cases--by this Court in Best & Co. v. Kaliana Chetti Appeal No. 36 of 1880, unreported and by the High Court of Calcutta in re Ajudhia Prasad 7 B.L.R. 74, and by the Bombay High Court in re Lakhmidas Hanzraj 5 Bom. H.C.R., 63 and Kalliandas Kirparam v. Trikamlal Gulabrai 9 Bom.

H.C.R. 307.

4. The second objection must be allowed.

5. The appellants' vakil admits that unless he is permitted to refer to the notes of evidence, he cannot support the appeal. The appeal, therefore, fails, and we must dismiss it with costs.

6. Wilson and King, Attorneys for Respondent.

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