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

Rutherford Vs. Fischer

Rutherford Vs. Fischer

SooperKanoon Citation : sooperkanoon.com/78223

Court : US Supreme Court

Decided On : 1800

Appeal No. : 4 U.S. 22

Appellant : Rutherford

Respondent : Fischer

Judgement :

Rutherford v. Fischer - 4 U.S. 22 (1800)
U.S. Supreme Court Rutherford v. Fischer, 4 U.S. 4 Dall. 22 22 (1800)

Rutherford v. Fischer

4 U.S. (4 Dall.) 22

ERROR TO THE CIRCUIT

COURT OF NEW JERSEY

SYLLABUS

Under the Judiciary Act of 1789, a writ of error to this Court can only be taken out in the case of a final judgment.

When the defendant had entered a plea of the statute of limitations to the call of the complainants and the plea was overruled and the defendant ordered to answer over, a writ of error will not lie.

It appeared that the defendant in the circuit court had pleaded the statute of limitations to the bill of the complainants, and that the plea was overruled and the defendants ordered to answer the bill. On this decree, the present writ of error was sued out and it was moved to quash the writ because it was not a final decree upon which alone a writ of error would lie.

CHASE, JUSTICE.

In England, a writ of error may be brought upon an interlocutory decree or order, and until a decision obtained upon the writ, the proceedings in the court below are stayed. But here the words of the act which allow a writ of error allow it only in the case of a final judgment.

By the Court:

The writ must be quashed with costs.

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