

Hem Chunder Chunder Vs. Prankristo Chunder

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Court : Kolkata

Decided On : Jul-27-1876

Reported in : (1876)ILR1Cal403

Judge : Pontifex, J.

Appellant : Hem Chunder Chunder

Respondent : Prankristo Chunder

Judgement :

Pontifex, J.

1. In this case before 1871 there was a suit for partition of the estate of Ramtonoo Chunder. In that suit Bissonath Chunder was a defendant. By a decree in that suit, dated the 13th of February 1871, the Receiver of the Court was appointed Receiver of the estate, and there was the usual order, restraining the defendants in that suit and persons claiming under them from intermeddling with the estate pending partition, and it was further ordered that quiet possession should be given to the Receiver. Bissonath Chunder has since died, and his representatives have been made parties to the suit.

2. Under these circumstances, and while the Receiver is still undischarged, one Denonath Mitter, a judgment-creditor in a suit on a mortgage against Bissonath Chunder, now seeks satisfaction of his decree against Bissonath's share of the

property under partition, and finds himself powerless to execute his decree against such share without the assistance of the Court, because the estate is in the hands of the Receiver. It is, therefore, absolutely necessary for him to come to this Court for assistance. It seems to me that unless I grant this application, Denonath Mitter will be unable to execute his decree against the property of Bissonath, so as to obtain satisfaction of his judgment-debt. He cannot proceed in the usual and ordinary way under Act VIII to attach and sell the property in the mofussi, because it is in the hands of the Receiver of this Court.

3 I will make an order that Bissonath's interest in the property in the hands of the Receiver must be considered as attached, and that the Receiver proceed to sell that interest, and for the purpose of carrying out the sale I will order the sale proceeds to be paid into Court in this suit to await the further orders of the Courts.

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