

In Re: H.R. Cobbold

In Re: H.R. Cobbold

SooperKanoon Citation : sooperkanoon.com/856611

Court : Kolkata

Decided On : Nov-23-1908

Reported in : (1909)ILR36Cal512,2Ind.Cas.572a

Judge : Frances W. Maclean, C.J. ;Harington and ;Brett, JJ.

Appellant : In Re: H.R. Cobbold

Judgement :

Frances W. Maclean, C.J.

1. This really is not an appeal from a decision of Mr. Justice Fletcher, for he passed no order in the matter. It is an application under Section 73 of the Insolvent Act and we have ample jurisdiction to make the order which we propose to do. The Official Assignee has not appeared before us but the insolvent has and he does not object to the order.

2. It is quite clear from the correspondence and the evidence in the case that the present appellants considered that they ought to have been entered in the schedule of the creditors in respect of the amount they claimed and those who represented the Official Assignee took the same view, and in fact a petition was presented for amending the schedule in that respect. It appears, however, that the application for the final discharge of the insolvent came on, on the 3rd of March in this year and apparently the matter escaped the attention of the parties and of the Court and nothing was done in the matter. The creditors, the present appellants,

now come and ask us to intervene under Section 73 of the Insolvent Act. We think justice demands that that should be done, and, the appellants not desiring to cancel the order of discharge, and we think properly, an order should be made in terms of prayers 2 and 3 of their petition.

3. The costs of both parties may be paid out of the estate in the hands of the Official Assignee.

Harington and Brett, JJ.

4. Concurred.

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