

Abayuswari Debi Vs. Sidheswari Debi

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Court : Kolkata

Decided On : Nov-26-1888

Reported in : (1889)ILR16Cal80

Judge : Mitter and ;Macpherson, JJ.

Appellant : Abayuswari Debi

Respondent : Sidheswari Debi

Judgement :

Mitter and Macpherson, JJ.

1. The order complained of in this case was passed under Section 144 of the Criminal Procedure Code. The authorities are clear upon this point that, if the Magistrate had no jurisdiction to make the order, this Court can interfere under Section 15 of the Charter Act. Therefore the only question that we have to consider is whether the order complained of is one which the Magistrate could make under Section 144 of the Code. The section says that: 'In cases where, in the opinion of a District Magistrate, a Sub-Divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order, stating the material facts of the case and served in manner provided by Section 134, direct any person to abstain from a certain act,' &c.; &c.; Now, by the words 'a certain act' we understand that it

must be a definite act. We have considered the order passed in this case, and we are of opinion that the acts which the petitioner is directed to abstain from are not acts which come within the meaning of the words 'a certain act,' She is directed not to collect rents from the ryots of two pergunnahs; no particular ryots are mentioned, but the, rent is not to be collected from the ryots of two pergunnahs generally. We do not think that such an order as this comes within the words certain act.' Upon this ground alone we set aside the order and make the rule absolute.

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