

In Re: Abdool Aziz

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Court : Kolkata

Decided On : Mar-15-1896

Reported in : (1896)ILR23Cal577

Judge : Ameer Ali and ;Sale, JJ.

Appellant : In Re: Abdool Aziz

Judgement :

Ameer Ali and Sale, JJ.

1. It appears that the house respecting which the question as to payment of probate duty has arisen forms the subject-matter of a suit, which was instituted by the testator with the object of obtaining possession thereof, but during the pendency of which he died. He has left a will, by which he gives the property to the petitioner who is named as executor. The executor has applied for probate, stating that the testator has left no other assets, and prays that he may be exempted from the payment of probate duty, until after the decision of the suit in his favour. The testator had a mere right of action in respect of the house, which he was seeking to enforce. The value of such a right it is, of course, impossible to determine. That right he devised to the applicant.

2. As this is a case unprovided for under the Act, we may fairly take the value of the property for the purposes of the present application as not exceeding Rs. 1,000.

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