

Before Mr. Justice Prinsep and Mr. Justice Beverley.

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May 20.

JODOONATH MUNDUL (DECREE-HOLDER) *v.* BROJO MOHUN GHOSE
(JUDGMENT-DEBTOR) AND RAJ NARAIN GHOSE (AUCTION-PURCHASER.)*

*Appeal—Sale in Execution of Decree—Civil Procedure Code, s. 294—
Application for leave to bid—Decree-holder.*

No appeal lies from an order passed under s. 294 of the Civil Procedure Code refusing permission to a decree-holder to bid at a sale in execution of his decree.

IN this case Jodoonath Mundul obtained a decree for arrears of rent against Brojo Mohun Ghose and others, and in execution of that decree he attached certain property belonging to the judgment-debtor, Brojo Mohun Ghose, and obtained an order for sale. He then applied to the Court executing the decree for permission to bid at the sale, but his application was rejected. From the order rejecting his application the decree-holder appealed to the High Court.

Baboo *Nil Madhub Bose* for the appellant.

Baboo *Bhubun Mohun Dass* for the respondents.

The judgment of the Court (PRINSEP and BEVERLEY, JJ.) was delivered by

PRINSEP, J.—This is an appeal against an order passed by the Munsiff refusing to give the decree-holder permission to purchase at a sale held in execution of a decree.

In our opinion no appeal lies against such an order. The appellant's pleader contends that an appeal lies under s. 588, cl. 16, but that clause seems to us to allow an appeal only against an order under s. 294 confirming or setting aside or refusing to set aside a sale of immoveable property, and not against an order refusing to give a decree-holder permission to bid. The appeal must therefore be dismissed with costs.

Appeal dismissed.

P. O'K.

* Appeal from Order No. 73 of 1886 against the order of Baboo Gopal Chunder Banerji, Munsiff of Bonegram in Jessore, dated the 28th of December 1885.

The cases on this point are, we observe, contradictory, and if it really arose we should feel bound to refer the matter for settlement by a Full Bench; but on examination of the record we find no valid ground for this objection. The Magistrate refers to a Police report which clearly sets out the probability of a breach of the peace, and we must regard that report as forming part of, and incorporated with, the Magistrate's proceeding.

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We accordingly see no sufficient grounds for interfering as a Court of Revision.

The rule is discharged.

Rule discharged.

P. O'K.

Before Mr. Justice O'Kinealy and Mr. Justice Agnew.

ANUND MOYI DABIA (PETITIONER) v. SHURNOMOYI (OPPOSITE PARTY.)*

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Criminal Procedure Code, s. 145—Julkur right—Tangible immoveable property—Dispute regarding a julkur.

A dispute concerning a *julkur* right is not a dispute concerning "tangible immoveable property" within the meaning of s. 145 of the Code of Criminal Procedure, and cannot be inquired into by a Magistrate under the provisions of that section.

IN this case the petitioner, Rani Anund Moyi Dabia, and the Maharani Shurnomoyi each claimed to be in possession of the fishery of a *chora* or abandoned bed of the river Dhurla, which is commonly called the *Dasherhat chora*. The Maharani based her claim on a decree which she had obtained against the predecessors of the petitioner in the year 1867, and on the fact that in 1282 B.S. she had leased the fishing to her jotedar Baboo Lukhi Kanto Sirkar, who had all along remained in possession. Rani Anund Moyi Dabia claimed to be in possession of the fishery by her *ijaradar* Chandro Canto Manjhi. The Deputy Magistrate of Kurigram held a proceeding under s. 145 of the Criminal Procedure Code, and having come to the conclusion on the evidence that the Maharani Shurnomoyi was in possession passed the following order on the 10th of March 1886:—

* Criminal Revision No. 220 of 1886, against the order passed by T. J. Mendes, Esq., Deputy Magistrate of Kurigram, dated the 10th of March 1886.