

Jyoti Prasad Lala Vs. Pearilal Lala and ors.

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Court : Kolkata

Decided On : Jul-08-1929

Reported in : AIR1930Cal384

Appellant : Jyoti Prasad Lala

Respondent : Pearilal Lala and ors.

Judgement :

Graham, J.

1. This rule is directed against an order of the District Judge of Hooghly dated 16th February 1929 directing a receiver to let a god own at a suitable monthly rent and also to sell some iron safes, and some gold and silver ornaments, and bullion and to apply the sale proceeds towards the payment of debts due from the minor's estate. It appears that a receiver was appointed by the Court in this case and there is controversy between the parties as to whether the properties of the minor should be sold or not, or whether the petitioner should be allowed to continue the karbar. It has been argued on behalf of the petitioner that, inasmuch as no guardian has yet been appointed, the learned District Judge had 'no jurisdiction to order the sale of the minor's properties by the receiver. In support of that contention, reference has been made to Section 12, Guardians and Wards Act, and it was urged that it would be straining the language of that section and that it would go contrary to the scheme of the Act to hold that the Court has power to make an order for sale in such circumstances as obtain in the present case. Section 12 empowers the Court to make such order for the protection of the properties of the minor as it thinks fit. The discretion which is conferred upon the Court by this section is a wide one, and there can be no doubt that it has the power to appoint a receiver, and the receiver when appointed must, having regard to the provisions of Section 141, Civil P.C. be deemed to have all powers of a receiver under the Code. Those 'powers would include the power to sell where the adoption of such course is deemed to be necessary for the protection of the interests of the minor. No objection is taken to the order in so far as it directs the letting of the godown at a monthly rental but so far as it orders the properties to be sold it is strongly objected to and is claimed to be without jurisdiction. In my judgment, the order cannot be deemed to be ultra vires of Section 12 of the Act, and as it is a matter of the discretion of the Court, I do not think that we should be justified in interfering with an interlocutory order of this description. In my judgment, the rule must be discharged with costs, hearing fee being assessed at one gold mohur.

Mitter, J.

2. I agree.

