

C.T. Ambler Vs. Shah Somi Ahmed

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Court : Kolkata

Decided On : Jan-26-1910

Reported in : 6Ind.Cas.545a

Judge : Stephen and ;Carnduff, JJ.

Appellant : C.T. Ambler

Respondent : Shah Somi Ahmed

Judgement :

1. In this case the land was attached by the Magistrate under Section 146, Criminal Procedure Code. Subsequently the petitioner obtained an order in his favour from the hands of the survey authorities under Section 41 of the Bengal Survey Act. He now applies to have the attachment released in his favour and he is entitled to have it so released because, the order of the Collector under the Act is a determination by a competent Court of the rights of the person entitled to the land. It is also a determination of the rights of the parties to the original dispute, since the two parties in the original dispute were also both before the Survey Court. An order has also been made under the Bengal Tenancy Act, the effect of which we need not notice, as the order under the Survey Act has the force of an order of any Civil Court.

2. The Rule, therefore, is made absolute the order in question is set aside and the attachment must be released in favour of the petitioner.