

## **Deputy Commissioner, Faizabad vs Rudra Pratap Singh And Ors. on 23 October, 1952**

**Equivalent citations: AIR1953ALL317, AIR 1953 ALLAHABAD 317**

### **JUDGMENT**

Kaul, J.

1. In a proceeding initiated under Section 4, Encumbered Estates Act, by Rudra Pratap Singh a claim under Section 11 was filed by Avdesh Pratap Singh "who was originally the appellant in F. C. Appeal no. 12 of 1946, in this Court. The claim was dismissed as time barred. It was against this order that Appeal no. 12 of 1946 was preferred. Respondent 10 was one of the creditors of Eudra Pratap Singh and, in the proceeding under the Encumbered Estates Act, a decree for a certain sum was passed in his favour. As already stated, he is a party to the appeal preferred by Advesh Pratap Singh. It may be mentioned that the property in respect of which Avdesh Pratap Singh had preferred a claim under Section 11, Encumbered Estates Act, was taken over by the Court of Wards under its superintendence in 1950. The Deputy Commissioner, Faizabad, was appointed manager Court of Wards in respect of this estate. Consequently the name of Deputy Commissioner, Faizabad, was substituted on the record of F. C. Appeal no. 12 of 1946 in place of that of the original appellant Avdesh Pratap Singh. The estate was released from the superintendence of the Court of Wards in May 1951, but no steps have been taken since by Avdesh Pratap Singh for the progress of this appeal.

2. The present application was made by respondent 10 praying that the appeal be dismissed for want of prosecution. Notice of this application as also a notice of the appeal were issued to Avdesh Pratap Singh. The notice of the application issued for 11-8-1952 was served upon him. We find, however, from the report of the process server on the back of the notice in the main appeal for today that Avdesh Pratap Singh met the process server but refused to accept the notice of the appeal. Accordingly, the process server affixed the notice to the outer door of the residence of the appellant. For some reason, which is not clear, the learned Civil Judge to whom the notice was sent for service, has declared the service to be insufficient. We are clear that inasmuch as Avdesh Pratap Singh met the process server but refused to accept the notice there was sufficient service of the process upon him. We hold accordingly that Avdesh Pratap Singh was served with notice of the hearing of the appeal today. He is absent. The appeal is accordingly dismissed for default. The appellant shall pay the costs of the respondents. In view of this order, it is unnecessary to pass any further order on the application made by Raju Narain Pratap Singh respondent 10.