

Ward v. Gregory.

*use, or otherwise taken by the state ; and such other damages allowed to him, as the owner of the slaves, as the court might think proper, against the state of Georgia, &c.

MARSHALL, Ch. J., delivered the opinion of the court.—This is not a case where the property is in custody of a court of admiralty, or brought within its jurisdiction, and in the possession of any private person ; it is not, therefore, one for the exercise of that jurisdiction. It is a mere personal suit against a state, to recover proceeds in its possession, and in such a case, no private person has a right to commence an original suit in this court against a state.

*GEORGE W. WARD and RICHARD K. CALL, Register and Receiver [*633
(U. S.), Appellants, v. LEWIS GREGORY.

The same Appellants v. JACOB ROBINSON and F. SWEARINGEN.

Appeal.

A *mandamus* was issued by the superior court of appeals of the middle district of Florida, directed to the register and receiver of the western land-district of Florida, commanding them to permit the entry and purchase of certain lands ; from this proceeding, the register and receiver appealed to this court. The appeal was dismissed ; the proceeding at *mandamus* being at common law, and therefore, the removal to this court should have been by writ of error.

APPEALS from the Court of Appeals for the territory of Florida.

White moved to dismiss these cases, on the grounds that the proceedings were at law in the courts of the United States for the territory of Florida, and that they had been brought up from the court of appeals of that territory, by appeals instead of by writs of error.

On the 13th December, 1826, on the applications of the appellees to the superior court of appeals for the middle district of Florida, a *mandamus* was issued directed to George W. Ward, the register of the western land-district of Florida, and to Richard K. Call, receiver of public moneys in said district, commanding them to permit the persons praying for the *mandamus* to enter and purchase certain sections of land, described in the writ, under the provisions of the act of congress of the 22d of April 1826, which gave rights of pre-emption in the purchase of land to certain settlers in the states of Alabama and Mississippi, and the territory of Florida. From the superior court, the case was removed by a writ of error, to the court of appeals for the territory of Florida ; and on the 21st of January 1831, the order of the superior court was affirmed by the court of appeals. From this judgment, the United States appealed to this court.

THE COURT ordered the appeal to be dismissed ; the proceeding by *mandamus* being at common law, and therefore, the cases should have been brought up by writs of error.