
(1908) 11 CAL CK 0013
In the Calcutta High Court

Ambica Charan Chakravarti and Others

APPELLANT

Vs

Joy Chandra Ghosh and Others

RESPONDENT

Date of Decision : 11-11-1908

Acts Referred:

Bengal Tenancy Act, 1885 — Section 103B, 104J

Citation : 4 Ind. Cas. 470

Hon'ble Judges : Stephen, J;Doss, J

Bench : Division Bench

Judgement

1. This suit is brought for rent in respect of a certain holding. The plaintiffs sue for rent at the rate of Rs. 20 and in respect of their claim they refer to the settlement of the rent which took place in the year 1900. The defendant meets this claim by alleging that the rent is only Rs. 3-2 which rent it appears was fixed by a pottah, dated 1832. It appears that since that date the land has been purchased by the Government at a revenue sale after which it was settled with the plaintiffs, and either before or after settlement with them the record-of-rights was prepared. The settlement of rent was made under Part II of Chap. X of the Bengal Tenancy Act.

2. The plaintiffs contend that the rent roll having been duly prepared and incorporated with the record-of-rights is conclusive as to the amount of rent by force of Section 104J and the rent roll shows the rent to be Rs. 20. On behalf of the defendant it is argued that the effect of Section 104J is modified by Section 103B. This appears to us to be wholly without foundation. Section 103B makes the record-of-rights conclusive and makes it correct until the contrary is proved. It does not, however, apply to the rent roll which is the subject-matter of the next part of Chap. X. Section 104J applies to the rent roll alone and to no other part of the record-of-rights and Section 104J enacts that the settlement of rents contained in the rent roll shall be deemed to be conclusive and the rents fair and equitable, no provision being made for the admission of any evidence to the contrary. The two sections, therefore, 103B and 104J, refer to different subject-

matters and, therefore, the earlier can have no application on the effect of the latter. The lower appellate Court has considered the effect of other sections of the Bengal Tenancy Act which have been referred to by the learned Counsel for the respondent before us. We consider, however, that they have no application and that the matter is to be decided solely on the construction of Section 104J which is perfectly plain.

3. The appeal, therefore, is allowed, the judgment and decree of the lower appellate Court are set aside and those of the Munsif restored.

4. The appellants are entitled to their costs in all the Courts.