

**(1929) 12 BOM CK 0009**  
**In the Bombay High Court**

Amiruddi Gazi

APPELLANT

Vs

Makhan Lal Chatterjee

RESPONDENT

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**Date of Decision :** 05-12-1929

**Acts Referred:**

**Citation :** (1930) 32 BOMLR 520

**Hon'ble Judges :** Viscount Dunedin, J;Tomlin, J;George Lowndes, J;Buckmaster, J;Binod Mitter, J

**Bench :** Full Bench

**Final Decision :** Dismissed

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## Judgement

Buckmaster, J.—The dispute out of which this appeal has arisen, has its immediate origin in the fact that the present appellants on May 8, 1915, obtained a decree against a man names Kedar Nath Ghose for payment of rent in respect of certain lands in Mouza Dudli, in Chakley Dhuliapur.

2. The respondent No. 1, Makhan Lal Chatterjee, claimed that these lands were included in a purchase made by his father at an auction sale on February 25, 1907, and accordingly institution the proceedings which have culminated in this appeal against the appellants, and Kedar Nath Ghose claiming that the appellants had no interest in the lands and that he was entitled to rent from the tenant.

3. The Subordinate Judge dismissed the suit; on appeal to the Additional District Judge this decree was set aside and the plaintiffs' claim granted, and an appeal from the District Judge to the High Court of Calcutta was dismissed, chiefly upon the ground that the question in issue was really one of fact upon which the decision of the District Judge was final. The whole of the relevant evidence in the matter is, however, documentary, the documents themselves constitute the foundation of the rights claimed by respondent No. 1, and in their Lordships' view the simple and attractive solution which not unnaturally commended itself to the High Court cannot be accepted and the matter must be again examined throughout. [Their Lordships then proceeded to examine the facts and saw no

sufficient reason to differ from the judgments appealed from. The appeal was therefore dismissed.]