

(1908) 11 CAL CK 0025
In the Calcutta High Court

Amjad Ali and Others

APPELLANT

Vs

Kaderjan Bibbe and Others

RESPONDENT

Date of Decision : 20-11-1908

Acts Referred:

Citation : 4 Ind. Cas. 518

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

Bench : Division Bench

Judgement

1. This suit is brought by the plaintiff for possession of a plot of land which he claims as an accretion to his jote. The accretion is not denied, and it is found that at the time of the suit the plaintiff was an occupancy tenant. At the time of the accretion, however, he was a non-occupancy tenant, and the question before us is whether Regulation XI of 1825, Section 4 applies to the case.

2. The appellant relies on the decisions in Zukheeroddin Paikar v. Campbell 4 W.R. Cr. R. 57 and Beni Pershad Koeri v. Chaturi Tewary 33 C. 444; 4 C.L.J. 63 to show that it does not. The former case referred to a tenant from year to year and it was held that he was not entitled to the benefit of the section. In the latter a fresh agreement for a year's tenancy was actually made every year, so that the tenant never had any interest in the land beyond the end of the current year. Neither of these cases, therefore, touch the case of a non-occupancy tenant.

3. On the other hand, the decisions in the case of Ahmed Bepari v. Tohi Muhamed 13 C.W.N. 267; 4 Ind. Cas. 511 following the judgment in Bhuggobut Pershad Singh v. Durg Bijoy 16 W.R. 95; 8 B.L.R. 73 and unreported case S.A. No. 2520 of 1904 are direct authorities for holding that a non-occupancy tenant can acquire a right u/s 4. The former case is on all fours with the present and we have no hesitation in following it.

4. The appeal is, therefore, dismissed with costs.