

(1919) 06 CAL CK 0045
In the Calcutta High Court

Ananda Chandra Mukherjee and Others	APPELLANT
Vs	
Srimati Kiransashi Debi and Others	RESPONDENT

Date of Decision : 27-06-1919

Acts Referred:

Citation : AIR 1919 Cal 252 : 53 Ind. Cas. 1004

Hon'ble Judges : Newbould, J

Bench : Single Bench

Judgement

Newbould, J.—This appeal arises out of a suit for ejectment from certain lands known as Chowkidari Chakran lands. The plaintiff based his claim on a lease from the Maharajah of Burdwan, who is the proprietor of the estate within the ambit of which these lands lie. The defendants are the tenants of the Patnidars, who held under a Putni lease granted in 1213 B. S. corresponding to 1806-7 A. D. The learned Subordinate Judge on appeal decided in favour of the plaintiff, on the ground that the Clause in the lease giving the Zamindar full power to appoint or dismiss the Chowkidar shows that these lands could not have been transferred to the Putnidars. The point that arises in this appeal is the same which arose in the case of Nafar Chandra y. Bejoy Chand (2). That ease was decided by my learned brother Teunor, J., and myself and we held that such a Clause in the Putni lease had not the effect of reserving to the Zamindar and excluding from the Patni the Chowkidari Chakran land. When we delivered the judgment, our attention was not drawn to the decision of the Judicial Committee of the Privy Council in the ease of Banjit Singh v. Kali Dasi Debt (1). That decision lays down that ordinarily the Zamindar's interest to Chowkidari Chakran lands resumed by Government and transferred to the Zemindar under Bengal Act VI of 1970 passed by virtue of such a transfer to the holder of the Putni lease in the village within which such lands are situated. This authority confirms our previous decision and the essential conditions of the lease being similar, I have no hesitation in holding that in the present case the right in the land passed to the Putnidar on resumption and that the plaintiff has no title which will enable him to succeed against the tenants, the Putnidars.

2. It was also contended that the suit is barred by limitation. But on the view I have taken, it is unnecessary to determine this point.
3. The appeal is decreed. The judgment and decree of the lower Appellate Court are set aside and the original judgment and decree of the Munsif are restored and the plaintiff's suit dismissed.
4. The appellants are entitled to their costs in this Court and in the lower Appellate Court.