

(1899) 03 CAL CK 0018
In the Calcutta High Court

Anant Pandit and Others

APPELLANT

Vs

Madhusudan Mandal

RESPONDENT

Date of Decision : 22-03-1899

Acts Referred:

Citation : (1899) ILR (Cal) 574

Hon'ble Judges : Stevens, J;Prinsep, J

Bench : Division Bench

Judgement

Prinsep and Stevens, JJ.—This is a case in which the petitioners have been convicted of a riot and hurt in connection with their attempt to assert and enforce a right to fish in a certain tank, in which they were opposed by the other co-sharers. The learned pleader for the petitioners maintained that inasmuch as they had a right to fish and are found to have a share in the tank, they were justified in proceeding even by force to enjoy that right, even if they apprehended resistance on the part of others, that is to say, others having a share in the same tank. As an authority for this, our attention was drawn to the case of Pachkauri v. Queen-Empress I.L.R (1897)., 24 Cal., 686. It is extremely difficult in cases of this description to adopt and apply a general proposition of law as applicable to the facts of different cases. Some of the observations made in that case may perhaps be applied to the facts of the present case, but even that seems doubtful. Our attention has also been drawn to the case of Ganouri Lal Das v. Queen-Empress ILR (1889), 16 Cal., 206. That case has been distinguished in the case of Pachkauri v. Queen-Empress I.L.R (1897) 24 Cal 686, to which reference has already been made. In our opinion, the law laid down in the case of Ganouri Lal Das v. Queen-Empress I.L.R (1889) ., 16 Cal., 206, is what should be applied to the present case, and, so far as we understand the facts of that case, they are analogous to the facts of the present case. If this case is properly distinguishable from the case of Pachkauri v. Queen-Empress I.L.R (1897) 24 Cal., 686, the opinion we hold is not inconsistent with that judgment. We agree with the view of the law expressed by the learned Judges of this Court in the case of Ganouri Lal Das v. Queen-Empress, and we therefore

refuse this application.