
(1922) 02 CAL CK 0084
In the Calcutta High Court

Badaruddin Mun Hi

APPELLANT

Vs

Sarapaddin Bepari and Others

RESPONDENT

Date of Decision : 22-02-1922

Acts Referred:

Bengal Tenancy Act, 1885 — Section 111A
Limitation Act, 1963 — Article 120

Citation : AIR 1923 Cal 307 : 68 Ind. Cas. 489

Hon'ble Judges : Panton, J;Newbould, J

Bench : Division Bench

Judgement

1. The only point that has been argued in this appeal is the point of limitation. The plaintiffs brought this suit for declaration that they had raiyati title in certain land and that they were not under-raiyots under the defendant as recorded in the finally published Record of Rights. It appears that during the preparation of the Record of Rights there was a dispute between the plaintiffs and the defendant as to the status of the former and that it was decided on the 2nd July 1908. The Record of Rights was finally published some time in the Bengali year 1320. The suit was instituted on the 1st June 1917. The period of limitation admittedly is six years under Article 120 of the First Schedule of the Limitation Act. Consequently, if limitation commenced to run from the decision of the dispute the suit is barred, but if it commenced from the final publication of the Record of Rights the suit is within time. We think that the decision of the learned Subordinate Judge on this point is correct. As the plaintiffs are in possession of the property, either of these events would give them a cause of action, and also Section 111 A of the Bengal Tenancy Act gives them the right to institute a declaratory suit of the nature they have brought on the publication of the Record of Rights, or, in other words, they had a statutory cause of action which arose on the date of the final publication. The view we take is similar to the view taken by a Divisional Bench of the Patna High Court in the case of Latafat Hussain v. Kumar Kaliker Nand Singh 45 Ind. Cas. 432 : 3 P. L. J. 361 : 4 P. L. W. 303 : (1918) Pat. 225,

2. The appeal is dismissed with costs.