

(1914) 05 CAL CK 0068
In the Calcutta High Court

Basir Sheikh and Others

APPELLANT

Vs

Fazle Karim Biswas and Others

RESPONDENT

Date of Decision : 13-05-1914

Acts Referred:

Citation : AIR 1915 Cal 786(1) : 28 Ind. Cas. 703

Hon'ble Judges : Beachcroft, J; Asutosh Mukerjee, J

Bench : Division Bench

Judgement

1. This is an appeal by the defendants in a suit for possession of land. The decree is one for joint possession in favour of five plaintiffs. All these plaintiffs were joined as respondents to the appeal. The appellants, however, failed to serve notices of the appeal on two of them and the result was that this Court directed the appeal to be dismissed in so far as those two plaintiffs-respondents were concerned. The appeal has now come before us for disposal in so far as it is directed against the remaining three plaintiffs-respondents.

2. A preliminary objection has been taken that the appeal should not be heard, because, as the decree was one for joint possession of land, whatever view may be taken by this Court on the merits, the entire decree can be executed by the two plaintiffs against whom the appeal has been dismissed. In our opinion this objection is fatal and must be allowed. The view we take is supported by the decision of this Court in the cases of Bejoy Gopal Bose v. Umesh Chandra Bose 6 C.W.N. 196 and Tarip Dafadar v. Khotajannessu Bibi 10 C.W.N. 981.

3. The result is that this appeal is dismissed with costs.