

(1939) 07 CAL CK 0038
In the Calcutta High Court

Bharat Bandhu Chattopadhyaya

APPELLANT

Vs

Ranendra Kumar Dutta and Others

RESPONDENT

Date of Decision : 14-07-1939

Acts Referred:

Public Demands Recovery Act — Section 20

Citation : AIR 1939 Cal 752

Hon'ble Judges : Roxburgh, J;B.K. Mukherjea, J

Bench : Full Bench

Judgement

B.K. Mukherjea, J.—This appeal is on behalf of defendant 1, and the suit was one for setting aside a Bale of residuary Taluk No. 4335 standing in the name of Ram Narayan Chatterjee in the Faridpur Collectorate, held on 30th November 1934 for non-payment of arrears of ceases, under the Public Demands Recovery Act. There were prayers also for confirmation of plaintiffs possession to the said taluk, and in the alternative for recovery of possession if defendant 1 be found to have taken possession. The trial Court dismissed the suit, on appeal the judgment was reversed and the plaintiff's suit decreed. It is against this decision that the present second appeal has been preferred. On hearing the learned advocates on both sides it seems to me that this appeal cannot succeed. It appears from the records that the certificate that was filed on 22nd July 1933 originally contained the names of four persons, to wit (1) Kula Chandra Chatterji, (2) Ashutosh Chatterji, (3) Mohima Charan Chatterji and (4) Kazi Abdul Aziz of these only Ashutosh was alive, and the rest were dead at the time when the certificate was filed. Ashutosh paid up his dues in proper time, and this is clear from the order dated 17th January 1934. After that it appears that the record keeper-supplied the names of some other persons, who were interested in the taluk, including that of Provat Chandra Dutt, the father of the present plaintiffs, and an order was passed that the names of these persons should be added as certificate-debtors. As a matter of fact the names were not added in the certificate, which remained unaltered as before. The peon reported that Provat was dead, and on 11th August 1934 another order was passed that the names of the heirs of Provat as

supplied by the petition would be added and notice u/s 7 issued.

2. Apart from the irregularities in the service of notice, which have been pointed by the Court of Appeal below, it seems clear, that the names of the plaintiffs were not added as certificate debtors, although a notice was issued in their names. In my opinion, u/s 20, Public Demands Recovery Act, all that vests in the purchaser is the right, title and interest of the certificate-debtor at the time of the sale. The names of the present plaintiffs never appeared as certificate-debtors in the certificate that was filed, and consequently their rights did not pass by the sale. Mr. Chakravarty has drawn our attention to the definition of a certificate-debtor as given in Section (3), Clause (1) of the Act. There it is stated that certificate-debtor means the person named as debtor in a certificate filed under the Act, and includes any person whose name is substituted or added as debtor by the certificate officer. Here the names of the plaintiffs were not in the certificate origin, ally, nor were they subsequently added. In my opinion an order merely directing the addition as parties of certain persons, whose names were not specified in the order, nor added in the certificate, cannot make these persons certificate debtors within the meaning of the Section. The result is that the appeal fails. The cross-objection filed by defendant 15 is allowed and the order for costs passed against them by the Court of Appeal below is set aside. We direct the parties to bear their costs throughout.

Roxburgh, J.

3. I agree.