

(1908) 01 CAL CK 0028
In the Calcutta High Court

Chairman, Bansberia Municipality

APPELLANT

Vs

Karunamoy Ganguli

RESPONDENT

Date of Decision : 02-01-1908

Acts Referred:

Bengal Municipal Act, 1932 — Section 261

Citation : 2 Ind. Cas. 944

Hon'ble Judges : Francis Maclean, C.J.;Coxe, J

Bench : Division Bench

Judgement

Francis Maclean, C.J.—This is a suit by the Chairman of the Bansberia Municipality against the defendant to recover certain fees under an alleged license to carry on a brick-burning business. The Court of Small Causes has dismissed the suit on the ground that inasmuch as the Municipality has not complied with the provisions of Section 261 of Act III of 1884, B. C., he cannot recover, and we are now invited to say that that view is erroneous. 1 do not think it is: I think it is right. The plaintiff can only recover the fees if his Municipality complied with the provisions of Section 261 of the Act. In point of fact, they have not done so: the Commissioners have not fixed any local limits as they were bound to do, within which the business could be carried on nor have they granted any license: and, it is for the fees under a license that they are now suing. There is a third difficulty in their path, namely that it is not shown that the scale of fees was approved by the Commissioner of the Division. The plaintiff can only recover these fees on his compliance with the provisions of the Act. But in the three instances, I have mentioned, the Municipality has failed to comply with the provisions of the Act. It seems to me, therefore, that the plaintiff has made out no case whatever.

2. The Rule must be discharged with costs, hearing fee, three gold mohurs.

Coxe, J.

3. I agree.