
(1891) 07 CAL CK 0011
In the Calcutta High Court

Chintamoni Dutt	Vs	APPELLANT
Rash Behari Mondul		RESPONDENT

Date of Decision : 10-07-1891

Acts Referred:

Citation : (1892) ILR (Cal) 17

Hon'ble Judges : Tottenham, J; Ghose, J

Bench : Division Bench

Judgement

Tottenham and Ghose, JJ.—The question raised in this appeal is whether, after the transfer of a tenure by the recorded tenant to another person, that transfer having been duly registered under the provisions of the Bengal Tenancy Act, the transferor is still liable for the rent of the tenure until the landlord has actually received notice of such transfer.

2. The suit was brought to recover the rent of several years--from 1292 to Assin 1295. The defendant pleaded that in the month of Chait 1293 he had transferred his tenure to another person, that he had had the transfer duly registered, and that he had deposited the rent due, with interest, up to the end of 1293, and he contended that he was not liable for any subsequent rent.

3. The Lower Appellate Court admitted the plea as valid; and declined to permit the landlord to call evidence to show that he had not actually received notice of the transfer. And in so ruling acted upon the authority of the case of Kristo Bulluv Ghose v. Kristo Lal Singh ILR Cal. 642 in which, the law having been discussed, a Division Bench laid down that the transfer was complete when the registration took place.

4. The law itself provides that the registration shall not take place unless the transferor or transferee deposits the landlord's fee for the mutation of names in the landlord's books. It also provides that the registering officer shall upon registration forward this fee to the Collector, and that the Collector shall forward it with notice to the landlord.

5. The decision in *Kristo Bulluv Ghose v. Kristo Lal Singh* ILR Cal 642 lays down that the transferor is no longer liable for any rent accruing after his transfer is duly registered according to the provisions of the Bengal Tenancy Act. This decision has been apparently approved of by a recent Full Bench decision in *Mahomed Abbas Mondul v. Brojo Sundari Debia* ILR Cal. 360. That decision is a direct authority in support of the Lower Court's decision, and we are not prepared to dissent from it. The law seems pretty clear upon the subject; and although it might seem a case involving hardship to the landlord, that though he may not have received a notice, by some neglect on the part of the Registrar or of the Collector, he is still liable to pay the costs of the suit for rent subsequently brought against the wrong person. Although it certainly was the case before the Bengal Tenancy Act was passed that the Courts always held that the landlord is entitled to look to his recorded tenant for all rent until he receives due notice of the transfer, the present law, as explained by the decision in *Kristo Bulluv Ghose v. Krislo Lall Singh* appears to have altered that state of things.

6. We think we are unable to give the appellant any relief, and that the appeal must be dismissed with costs.