

(1886) 02 CAL CK 0001
In the Calcutta High Court

Chunder Pershad Roy and Others

APPELLANT

Vs

Shuvadra Kumari Shaheba and Others

RESPONDENT

Date of Decision : 08-02-1886

Acts Referred:

Bengal Patni Taluks Regulation, 1819 — Section 14(1)

Citation : (1885) ILR (Cal) 622

Hon'ble Judges : Trevelyan, J; Prinsep, J

Bench : Division Bench

Judgement

Prinsep, J.—The plaintiff is the unregistered proprietor of a putni tenure, and sues to set aside a sale held under Regulation VIII of 1819, in consequence of certain irregularities therein.

2. The lower Courts have both found in favour of the plaintiff as regards the validity of the sale; but the lower Appellate Court has dismissed the suit, holding that the plaintiff as an unregistered putnidar is debarred from bringing this suit. As authorities for this the District Judge refers to Gossan Mangal Das v. Roy Dhunput Singh Bahadoor 25 W.R. 152 being a decision of a Division Bench of this Court, and also to a case decided by the Privy Council--Lukhi Naran Mitter v. Khettro Pal Singh Roy 13 B.L.R. 146. The last case is not in point. As regards the first case the report does not state the facts so as to enable us to judge whether it is any authority or not; the judgment does not even state whether the sale was held under the putni law.

3. Under such circumstances, we do not feel bound by the authority of that case.

4. Section 14, Clause 1 of the Putni Regulation says: "It shall be competent to any party desirous of contesting the right of a zamindar to make the sale, whether on the ground of there having been no balance due or on any other ground, to sue the zamindar for the reversal of the same, and upon establishing a sufficient plea to obtain a decree with full costs and damages." It seems to us that the words, "any person desirous of contesting the right of the zamindar," are

wide enough to include a person in the position of the plaintiff who is interested in the maintenance of the tenure which he holds. The provisions of the Putni Regulation and the decisions of the Courts would seem to go no further. It seems to us that, although the zamindar is not bound to recognise any one except the registered tenant in any proceedings taken with reference to any matter connected with the tenure, it is nevertheless open to any person interested in that tenure, or, as the law puts it, "desirous of contesting the right of the zamindar" to sue him on account of any illegal act by which his rights may have been affected in respect to that tenure. If it were not so, a neglect to register might entail an absolute forfeiture.

5. The lower Courts having found on the merits in favour of the plaintiff, we set aside the order passed by the District Judge, declaring that the plaintiff is not entitled to bring the suit, and order that the suit be decreed on the finding recorded on the merits.

6. The plaintiff will receive his costs in all the Courts.