

(1903) 06 CAL CK 0035

In the Calcutta High Court

Case No : Appeal from Appellate Decree No. 475 or 1901

Deoki Singh

APPELLANT

Vs

Lakshman Roy

RESPONDENT

Date of Decision : 12-06-1903

Acts Referred:

Citation : (1903) 06 CAL CK 0035

Judgement

Pratt and Mitra, JJ.—The Plaintiffs and their co-sharer Defendants obtained a zarpeshgi lease from the proprietors, who are the registered holders of a three-anna odd share in three villages. By an amicable arrangement between all the proprietors, the Plaintiffs' lessors obtained a ten-anna share in one of the villages and a five-anna share in another in lieu of the said three-anna odd share in all the three mouzahs. The Plaintiffs sued for arrears of rent as for a ten-anna share in one village and five-anna in another the suit has been dismissed on the ground that it is not maintainable under section 78 of the Land Registration Act although the Defendants have been paying rent on that basis without objection for many years.

2. We think that the view taken by the Subordinate Judge is not correct. The Act while providing for the registration by proprietors of their shares in an estate does not make it incumbent upon them to register their shares in specific mouzahs or other portions of land within the estate.

3. The Plaintiffs as well as their lessors have been duly registered with respect to a three-anna odd share in all three mouzalis comprising the estate and they have therefore complied with the requirements of Section 42 of the Land Registration Act and their position is not affected by the fact that under an amicable arrangement their shares have been differently allocated so as to give them larger shares in two mouzahs than their registered interest and no share at all in the third mouzah.

4. The same view was taken by another Division Bench of this Court in *Parashmoni Dassi v. Nabokishore Lahiri* Ante, p. 773.

5. The decree of the Lower Appellate Court is set aside and that of the Munsif is restored with costs throughout.