
(1945) 01 CAL CK 0001
In the Calcutta High Court
Case No : Civil Revision Case No. 759 of 1944

Furkan Ahamed

APPELLANT

Vs

Bharat Chandra Biswas and Others

RESPONDENT

Date of Decision : 30-01-1945

Acts Referred:

Citation : (1945) 01 CAL CK 0001

Final Decision : Allowed

Judgement

Henderson, J.—This Rule has been obtained by the judgment-debtor. It is directed against an order rejecting an application under sec. 171 of the Bengal Tenancy Act. It is conceded that the order of the Munsif was right, unless the Petitioner can get the benefit of sec. 52 of the Bengal Agricultural Debtors Act. It is also not disputed that, if he can, the application was made in time. Mr. Sen contended that the section does not apply unless the Petitioner was prohibited from making the application and his argument is that really there are not two periods but two descriptions of one period. This argument is based on the apparent redundancy of the second, but on this interpretation the first would appear to be redundant. The point, however, is settled by the decision of the Division Bench in the case of Subodh Chandra Maity v. Bidhu Bhutan Das Baxi 47 C. W. N. 543 (1943). All I propose to say now is that, if there ever is a case in which the two periods are separate, the party seeking to avoid limitation would be entitled to add them together.

2. On the merits, the question depends upon whether the application under sec. 171 of the Bengal Tenancy Act was an application regarding the debt which was the subject-matter of the proceedings before the Board. In my opinion, it was. The money so deposited will go to the satisfaction of the decree based upon that debt and therefore to the discharge of it. If the application to the Board had been successful, it would not have been necessary for the Petitioner to make the deposit at all.

3. The Rule is made absolute. The order of the Munsif is set aside and I direct

that the application of the Petitioner under sec. 171 of the Bengal Tenancy Act be allowed. I make no order as to costs.