

(1917) 08 CAL CK 0005
In the Calcutta High Court

Gagan Chand Naskar

APPELLANT

Vs

Peary Mohan Naskar and Others

RESPONDENT

Date of Decision : 10-08-1917

Acts Referred:

Citation : 42 Ind. Cas. 723

Hon'ble Judges : Richardson, J; Chitty, J

Bench : Division Bench

Judgement

1. In this case no question of jurisdiction arises but it would appear that the Magistrate has made a slip in declaring the possession of the whole 237 1/2 bighas, i.e., three chalet, to be with the second party. The second party consisted of 11 persons, 8 of whom filed written statements. From those written statements it would appear that they claimed 172 bighas 6 kanals 2 chattaks between them, each tenant giving the boundaries of the Area which he held. It also appears from the learned Magistrate's order that, although the proceedings commenced with regard to the whole 237 1/2 bighas, Gaganchand Naskar had won over some of the old tenants to his side and they had executed new kabuliyats in his favour. As to the precise area covered by those kabuliyats there is nothing before us to show, but it would appear that the second party were in possession not of the whole 237 1/2 bighas, but of 172 odd bighas as shown in their various written statements. We think that the case should go back to the learned Magistrate to see if this error was, in fact, made; and if it was for him to correct it.

2. Let the record be sent down without delay.