

(1903) 08 CAL CK 0014
In the Calcutta High Court

Girjanath Ray Chaudhuri and Others

APPELLANT

Vs

Surendra Nath Ray Chaudhuri and Others

RESPONDENT

Date of Decision : 13-08-1903

Acts Referred:

Citation : 16 Ind. Cas. 84

Hon'ble Judges : Francies Maclean, C.J;Geidt, J

Bench : Division Bench

Judgement

Francies Maclean, C.J.—The Plaintiffs in this are certain persons who alleged that they are entitled between them to a sixteen-annas share of the property in dispute, consisting of a house and land. The plaintiffs, claiming to be entitled to the sixteen-annas share, say, rightly or wrongly, that the defendants are keeping them out of possession of the property, and they seek by their suit to obtain possession as the rightful owners.

2. The learned Judge in the Court below has dismissed the action with costs, on the ground that it is multifarious. He says: "It is clear, therefore, that the three sets of plaintiffs have no community of interest, each having acquired separate shares by separate conveyances at different dates from different individuals having distinct and separate interest under dissimilar circumstances. Each has accordingly his separate and distinct cause of action which, not being common and identical, cannot be legally united in the manner it has been done in the present instance." That is not an accurate view of the law. The plaintiffs being owners, as they say, of the entire sixteen-annas in the property are entitled to bring this action to eject the defendants. I cannot see that the action is multifarious. It has been ingeniously suggested in this Court that the plaintiffs have stated in their plaint that their cause of action was a certain order made in certain criminal proceedings on the 31st of October 1900, and that as that order applied to some only of the plaintiffs, the plaintiffs have different causes of action. No doubt there is such an allegation in the plaint, but looking at the other allegations, it is reasonably clear what the real cause of action is, and that it if

common to all the plaintiffs. This view gains support from the cases of Haramoni Dassee v. Hari Churn Chowdhry 22 C. 833 and Fakirapa v. Rudrapa 16 B. 119. It is true that the plaintiffs derive their titles from different sources, some by inheritance, some by purchase, but they allege they have between them the entire sixteen-annas share in the property; and there is nothing antagonistic in their claim as between themselves, and they are jointly interested in turning out the defendants. The appeal must be allowed with costs, and the case must go back to the learned Judge to try the suit on the merits.

Geidt, J.

3. I concur.