

(1931) 07 CAL CK 0022
In the Calcutta High Court

Gostha Behari Dey

APPELLANT

Vs

Indra Chandra Dey and Others

RESPONDENT

Date of Decision : 10-07-1931

Acts Referred:

Citation : AIR 1933 Cal 144

Hon'ble Judges : Jack, J

Bench : Division Bench

Judgement

Jack, J.—This Rule was issued against an order allowing an application under Order 21, Rule 10, Civil P.C. It appears that this application was made in consequence of an order giving the petitioner the decree-holder symbolical possession of the land in suit. The applicants under Order 21, Rule 100 were not the judgment-debtors but holding under the judgment-debtors or some one else and they were not dispossessed by the decree-holder. Order 21, Rule 100 only applies where there is actual dispossession and a person whether holding under a judgment-debtor or any one else is not entitled to apply under this rule in a case where there has been only symbolical delivery of possession. This Rule is made absolute, the order of the Court below is set aside and the application under Order 21, Rule 100 is rejected. The petitioner will get his costs in the Court below as well as in this Court-hearing-fee one gold mohur in this Court.