

(1870) 12 CAL CK 0002
In the Calcutta High Court
Case No : Special Appeal No. 1341 of 1870

Hari Mohan Sirkar and Others

APPELLANT

Vs

R. Scott Moncrieff

RESPONDENT

Date of Decision : 07-12-1870

Acts Referred:

Citation : (1870) 12 CAL CK 0002

Judgement

E. Jackson, J.—This is a suit for two months' rent of forty-six bigas of land, and of certain, arhats, ghats, hats, and bazars thereon, in Mauza. Kennypore, near the town of Kooshtea. The lower Courts have come to opposite conclusions as regards the points which were raised before them, namely, as to whether the defendant was entitled to an statement of rent or not. On special appeal in this Court, we are asked to set aside the decision of the lower Appellate Court, on the ground that the Revenue Court in which this case was instituted had no jurisdiction to receive the plaint. Under the precedents of this Court, the Revenue Courts have no jurisdiction to entertain suits like the one before us. The rent under the lease does not come from the land, but the rent comes from the arhats and from the ghats and from the basars, as well as from the land, which explains the fact that forty-six bigas are let out at the rent of Rs. 6,000 annually. The case seems to be on all fours with the cases of Maharaja Dhiraj Mahatab Chand Bahadur v. Mah(sic) Ballabh Bore (1), Kali Mohan Chatterjee v. Kali Krishna Roy Chowdhry (2), Kali Kishen Biswas v. Sreemutty Jankee (2), Shalgram v. Mussamat Kubi(sic) (4), and Rane Shu(sic) v. Bl(sic) (5), in which it has been held that such suits do not form the subject of Act X of 1869, they must be brought in Civil Courts. However reluctant we may feel to remand this case still, following those precedents, we think we are obliged to set aside the decision of the Judge, and direct that the suit may be brought in the proper Court. The costs of the appeal, as far as it has gone, will be borne by the parties respectively, inasmuch as no such objection was raised in any of the lower Courts. The decision of the Judge is set aside, and the plaintiff's suit is dismissed.