

(1918) 04 CAL CK 0051
In the Calcutta High Court

Jakher Mohamed Mondal and Others

APPELLANT

Vs

Khatir Mohamed Shaikh

RESPONDENT

Date of Decision : 11-04-1918

Acts Referred:

Citation : 46 Ind. Cas. 264

Hon'ble Judges : Syed Shamsul Huda, J; Fletcher, J

Bench : Division Bench

Judgement

1. This is an appeal by the plaintiffs against the decision of the learned District Judge of Rungpur, dated the 16th April 1916, reversing the decision of the Munsif of Gaibandha. The suit was brought for ejectment of an under-raiyat after notice to quit. The first Court decreed the suit. On appeal, the learned District Judge reversed that decision on one point. The notice to quit had been signed by one of the co-sharer landlords and the learned Judge was of opinion that the evidence did not establish that he signed on behalf of himself and the other landlords. Therefore, he dismissed the suit. Neither side has attempted to support the decision of the learned Judge in this respect. Such a point was not in issue and could not be in issue in a suit of this nature. The judgment of the learned District Judge must, therefore, be set aside and the case remitted to the Court of Appeal below to have the appeal re-heard and disposed of on the points raised in the Court of first instance. Costs will abide the result.