

(1902) 11 CAL CK 0003
In the Calcutta High Court
Case No : No. 846 of 1902

Jhabu Singh and Others

APPELLANT

Vs

G.B. Rutherford

RESPONDENT

Date of Decision : 03-11-1902

Acts Referred:

Citation : (1902) 11 CAL CK 0003

Judgement

1. In this case a rule was granted to shew cause why an order passed under sec. 145 of the Code of Criminal Procedure in favour of the manager of the Ramkola Indigo concert; should not be set aside as having been made without jurisdiction, on the ground that such an order could not properly be passed except in favour of the proprietors of the concern, that is to say, the employers of the manager. It appears that one Mr. Rutherford as manager of the Ramkola concern was made the first party to these proceedings under sec. 145. An order was eventually made declaring him to be in possession and directing him to be continued in possession until evicted by due course of law.

2. It has been suggested that this case comes within the Full Bench case reported in Krishna Kamini Chowdhurani v. Abdul Jubbar Chowdhry 6 C. W. N. 787 (1902). In our opinion this contention is not sound. The case is on all fours with the cases of Newaz Ali v. Ramballabh Chahkravarti I. L. R. 21 Cal. 916 (1893) and Behary Lall Trigunait v. Darby I. L. R. 21 Cal. 915(1894). These decisions, so far as the point now raised is concerned, have not, in our opinion, been touched by the Full Bench case. Under these circumstances we must hold that the order is without jurisdiction. We accordingly make the rule absolute, and set aside the order.