

(1903) 03 CAL CK 0034

In the Calcutta High Court

Case No : Appeal from Appellate Decree No. 1828 of 1900

Kiron Chunder Roy

APPELLANT

Vs

Naimuddi Talukdar

RESPONDENT

Date of Decision : 30-03-1903

Acts Referred:

Citation : (1903) 03 CAL CK 0034

Final Decision : Dismissed

Judgement

Maclean, C.J.—I do not think we can interfere in this ease. I am not disposed to accept the view of the learned Government Pleader that a lease in Sub-section 4 of Section 37 of Act XI of 1859 can only mean a lease from the zemindar. There is no such qualification in the section. It only says "leases of lands whereon and c.;" and in the present case there is undoubtedly a lease of land. I am not disposed to think that a tin shed is a "permanent building" within the meaning of the section. The inclination of my opinion is the other way : but it has been found here that there are gardens and tanks on the land and that there is only one lease covering the whole land in dispute and that being so, it seems to me that the lessees have brought themselves within the exception.

2. The appeal, therefore, must be dismissed with costs.

Mitra J.

3. I concur.