

(1869) 02 CAL CK 0030
In the Calcutta High Court
Case No : Special Appeal No. 1498 of 1868

Lachman Prasad

APPELLANT

Vs

Holasmahtoon and Others

RESPONDENT

Date of Decision : 12-02-1869

Acts Referred:

Citation : (1869) 02 CAL CK 0030

Judgement

Norman, J.—This is a suit to recover bhouli rent, or a sum equivalent to the value of the proportion of the crop which the defendant ought to have handed over to the plaintiff, his landlord. The Deputy Collector, after ascertaining what was the quantity of each species of grain which should have been set apart as the share of the plaintiff, calculated the sum payable to the plaintiff by taking the price of the several sorts of grain at the rates prevalent at the time when it was cut. From that decision the plaintiff appeals, and contends that he is entitled to the prices which prevailed at the end of the year, which the Deputy Collector says were famine prices. The Judge on appeal affirmed the decision of the Deputy Collector. We think it quite clear that the Judge was right. The damage sustained by the plaintiff was equal to the value of the crop at the time when it was the duty of the defendant to have handed it over to the plaintiff. If, after that time, prices had fallen, it is clear that the defendant would have had no right to inflict on the plaintiff a loss by giving him anything less than the equivalent of that which he would have received, if the defendant had done his duty and handed the bhouli rent when it became due. On the other hand, the plaintiff has no right to make the defendant responsible for the possible profit which he might have made by the rise of the market price if he had kept the grain. The decision of the lower Appellate Court appears to us perfectly correct. The appeal is dismissed with costs.