

(1945) 12 CAL CK 0007
In the Calcutta High Court
Case No : Civil Rule No. 852 of 1945

Lal Mia alias Lal Mea Sadagar

APPELLANT

Vs

Sm. Amena Khatun and others

RESPONDENT

Date of Decision : 18-12-1945

Acts Referred:

Citation : (1945) 12 CAL CK 0007

Final Decision : Allowed

Judgement

Edgley, J.—The only point for determination in this case is whether S. 26F, Bengal Tenancy Act, applies to non-occupancy holdings. From the materials on the record it appears that the holding in the case, with which we are now concerned, was a non-occupancy holding in which neither the original lessee nor his successor-in-interest had acquired occupancy rights. Section 26F is included in a chapter of the Bengal Tenancy Act which only relates to occupancy holdings. In this connection it was held by the Chief Justice and Mukherjea J. in 44 C. W. N. 955 Kedar Nath v. Indra Narain ("40) 44 C. W. N. 955 that the sections in this chapter beginning with S. 26B, downwards apply only to occupancy holdings. It follows, therefore, that the pre-emption should not have been allowed in this case. The rule must accordingly be made absolute with costs-hearing fee, one gold mohur.