

**(1928) 07 CAL CK 0001**  
**In the Calcutta High Court**

Maniruddin Mandal and Others

APPELLANT

Vs

Sreemati Charu Sila Dassi

RESPONDENT

---

**Date of Decision :** 27-07-1928

**Acts Referred:**

Bengal Tenancy Act, 1885 — Section 20(1)(a)

**Citation :** 114 Ind. Cas. 150

**Hon'ble Judges :** Bose, J;B.B. Ghose, J

**Bench :** Division Bench

---

## Judgement

1. In this case the learned Subordinate Judge remanded the cases at the request of the Pleaders for both parties for the purpose of taking evidence on the question whether the lessor of the defendant, Nabin Bar, was an occupancy raiyat or not. The matter arises out of an action in ejectment. The respondent brought a suit for rent and obtained a decree for ejectment against her tenant Nabin. It appears that Nabin and his predecessor in interest had been holding the land in question for a considerable number of years. In fact, it appears that the grandfather of Nabin, Kamal Bar was the original tenant. It has been found by both the Courts below that Kamal was a raiyat. The previous suit brought against Nabin proceeded upon the basis that Nabin was a non-occupancy raiyat. The Subordinate Judge has held that that decree would not be binding on the present defendants who claimed to have held the land under Nabin. The Munsif made a decree in ejectment. The Subordinate Judge held that it should be found whether Kamal or his successor had acquired occupancy right before the Bengal Tenancy Act came into operation and the cases were remanded to take evidence upon that question. It, however, appears that it is not necessary to make that enquiry as under the amended Section 20(1)(a) which has been added to the Bengal Tenancy Act, Nabin would be considered to have held the land in the village for a continuous period of 12 years, although the area was declared to be a village on the 14th February, 1912. That being so the further enquiry directed by the Subordinate Judge is unnecessary. The decrees for Mas possession which were made by the Munsif cannot, therefore, stand according to the view expressed by

the Subordinate Judge. The order of remand is unnecessary under the circumstances stated above.

2. These appeals will, therefore, be allowed and the suits for Khas possession dismissed with costs in the trial Court. There will be no costs in the lower Appellate and this Court, because it was the duty of the defendants who were appellants in the lower Appellate Court to point out the enactment to the Judge below.