

(1920) 06 CAL CK 0029
In the Calcutta High Court

Nityananda Sarkar and on his death his heir and Legal representative Kali Krishna Sircar by his next friend and guardian Bhuban Mohan Mazoomdar

APPELLANT

Vs

Hari Mohan Sarkar and Others

RESPONDENT

Date of Decision : 03-06-1920

Acts Referred:

Bengal Tenancy Act, 1885 — Section 12

Citation : 64 Ind. Cas. 750

Hon'ble Judges : Teunon, J; Newbould, J

Bench : Division Bench

Judgement

1. The only question urged in this appeal is the question whether the landlord of a tenure can sue for rent the usufructuary mortgagee of his tenant, the said mortgagee having taken possession of the mortgaged property. Both the Courts below have held that in fact he can. The view they take is supported by the language of Section 12 of the Bengal Tenancy Act and also by the authority of the cases reported as *Kannye Loll Sett v. Nistoriny Dossee* 10 C. 443 : 5 Ind. Dec. (N.S.) 298, *Bharub Chandra Karpur v. Lalit Mohun Singh* 12 C. 185: 6 Ind. Dec. (N.S.) 126 and *Vithal Narayan v. Shriram Savant* 29 B. 391 : 7 Bom. L.R. 313. Accepting this view as correct, we dismiss this with costs.