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**(1896) 12 CAL CK 0020**  
**In the Calcutta High Court**

Priag Nath Sah Deo

APPELLANT

Vs

Mura Munda and Others

RESPONDENT

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**Date of Decision :** 21-12-1896

**Acts Referred:**

Chota Nagpur Landlord and Tenant Procedure Act, 1879 — Section 144, 37

**Citation :** (1897) ILR (Cal) 249

**Hon'ble Judges :** O''Kinealy, J;Hill, J

**Bench :** Division Bench

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**Judgement**

O''Kinealy and Hill, JJ.—This is an appeal from the decision of the Judicial Commissioner of Chutia Nagpur, dated the 7th January 1895.

2. It was first objected that no second appeal lay to this Court; but this objection was overruled some years ago. We think, therefore, that the objection fails.

3. Then it was argued, and that is the point upon which the appeal turns, that the appeal lay not to the Judicial Commissioner but to the Deputy Commissioner. The suit is of the nature mentioned in Clause (4), Section 37, and by Section 39 several claims of that kind may be joined in one suit. It would appear, therefore, that the several claims as mentioned in the second Clause of Section 39 form one suit and one suit only.

4. We now come to determine to what Court the appeal lay. Section 137 says that in suits under Clause (4) and certain other Clauses of Section 37, if tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, except under certain conditions which do not arise in this case. Section 139 refers to appeals from the decisions of a Deputy Collector. And then comes Section 144 which provides as follows: "In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector, an appeal is allowed to the Deputy

Commissioner, an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the Division, unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court." Bearing in mind that we are of opinion that a suit u/s 39, although it includes a number of claims, is one suit, and that u/s 137 the judgment, in such a suit as this, is not final, we think, looking at the somewhat obscure language of Section 144, that the appeal in this case lies to the Judicial Commissioner, the aggregate amount of the claims being more than one hundred rupees.

5. We, therefore, dismiss this appeal with costs.