

(1920) 12 CAL CK 0005
In the Calcutta High Court

Rajani Kanta Roy

APPELLANT

Vs

Anadi Kinkar Roy and Others

RESPONDENT

Date of Decision : 22-12-1920

Acts Referred:

Citation : 62 Ind. Cas. 711

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

Bench : Division Bench

Judgement

1. This appeal arises out of certain execution proceedings taken in execution of a decree for arrears of rent. The decree holder seeks to realize the decretal amount by bringing to sale the homestead and two tanks belonging to the judgment-debtors. The judgment debtors contend that they must first proceed against the land in arrears. They base this contention upon the contents of a pattah, Exhibit 1. The decree has, however, been placed before us and we find that the terms of this pattah have not been embodied therein. The decree as it stands places no restriction on the right of the decree-holder to execute the decree in the manner in which any such decree may be executed.

2. We, therefore, decree this appeal with costs in this Court and in both the Courts below and direct that the record be returned in order that the lower Court may proceed with the execution in the manner provided by law. We assess the hearing fee in this Court at one gold mohur, in the Court of the District Judge at Rs. 8 as assessed by him and in the Court of first instance at the sum of Rs. 8.