
(1888) 04 CAL CK 0001
In the Calcutta High Court

Rajendro Narain Roy

APPELLANT

Vs

Phudy Mondul and Another

RESPONDENT

Date of Decision : 25-04-1888

Acts Referred:

Bengal Tenancy Act, 1885 — Section 174

Citation : (1888) ILR (Cal) 483

Hon'ble Judges : W. Comer Petheram, C.J.;Tottenham, J;Pigot, J

Bench : Full Bench

Judgement

W. Comer Petheram, C.J.—The only question which is raised in this appeal is the question, what 1st he meaning of the word "judgment-debtor" in Section 174 of the Bengal Tenancy Act. So far as I can see, the expression "judgment-debtor" is an expression which is so well understood that it is impossible to give it any other than its well understood meaning, and that is, the person against whom a decree has been obtained. Mr. Evans suggests to us that it means not only the judgment-debtor himself, but also the assignee of the judgment-debtor's property, and that is the view which has been taken by Mr. Justice Norris. Mr. Justice Norris, in discussing the matter, discusses it on the ground that the Legislature may well have taken a wider view of the matter, but the question is not what they might have done, nor what it would have been wise for them to do, but what they have done, and they have said, in this particular case, that the only person who is to have this privilege is the judgment-debtor, and I do not think we can extend it beyond that.

2. Then in Section 170 the Legislature gives another right under different circumstances, and in that section they extend the power not only to the judgment-debtor, but to other persons besides, but they have refrained from doing so in Section 174, and from this also it would appear that they have done so intentionally.

3. On the whole, we think that the view taken by Mr. Justice Beverley is the correct view of the section, and this appeal must be dismissed with costs.