

(1936) 07 CAL CK 0048
In the Calcutta High Court

Samser Ali Choudhury and Others

APPELLANT

Vs

Haji Araf Muhammad Talukdar

RESPONDENT

Date of Decision : 31-07-1936

Acts Referred:

Bengal Tenancy Act, 1885 — Section 178, 179

Citation : 167 Ind. Cas. 404

Hon'ble Judges : Guha, J; Bartley, J

Bench : Division Bench

Judgement

1. This is an appeal under the Letters Patent, directed against the decision of our learned brother Mr. Justice Jack, dated February 25, 1936, affirming the decrees passed by the lower Courts in a suit for recovery of arrears of rent with interest, on the basis of a patni patta. The question for consideration before the lower Courts and before our learned brother Mr. Justice Jack in second appeal, related only to the question as to whether the plaintiff in the suit in which this appeal arises was entitled to interest on the patni rent at the rate stipulated in the kaubliyat, that is, at the rate of 6.1/2 per cent, per month or 75 per cent, per annum. The question resolved itself into this whether the landlord of a patni could realise more than 12.1/2 per cent, as interest on arrears of rent, regard being had to the provisions contained in Section 67 of the Bengal Tenancy Act. It appears to us that the decision on the question raised in this appeal is concluded by authority, so far as this Court is concerned, of the decision in the case of Monoranjan Rai v. Manshi Selamuddin Ahmad Choudliuri 39 C.W.N. 1003 : 164 Ind. Cas. 300 : 61 C.L.J. 346 : 9 R.C. 191 in which it was held on consideration of the material provisions contained in the Patni Regulation (Regulation VIII of 1890) that in view of Sections 2 and 3 of the Patni Regulation and Section 195(e) of the Bengal Tenancy Act, the matter of payment of interest on the arrears of patni rent is to be regulated by the terms of the engagement between the parties and not by Section 178 or the proviso to Section 179 of the Bengal Tenancy Act. Our learned brother Mr. Justice Jack in his judgment, against which this appeal is directed, relied upon the decision of this Court to which reference has just been

made, and has given his own reason for coming to the conclusion, which is entirely in consonance with the decision in Monoranjan's case 39 C.W.N. 1003 : 164 Ind. Cas. 300 : 61 C.L.J. 346 : 9 R.C. 191 referred to above. It may be mentioned that on consideration of the arguments advanced before us by Dr. Sen Gupta appearing for the appellant, we find no reason to come to any decision different from those arrived at by this Court in Monoranjan's case 39 C.W.N. 1003 : 164 Ind. Cas. 300 : 61 C.L.J. 346 : 9 R.C. 191 and the decision arrived at by our learned brother Mr. Justice Jack in the case in which this appeal has arisen,

2. The appeal fails, and it is dismissed with costs.