

(1940) 11 CAL CK 0020
In the Calcutta High Court

Srish Chandra Sen

APPELLANT

Vs

Mohim Chandra Ghose

RESPONDENT

Date of Decision : 11-11-1940

Acts Referred:

Bengal Agricultural Debtors Act, 1936 — Section 18(1)

Citation : AIR 1941 Cal 256

Hon'ble Judges : Derbyshire, C.J.;B.K. Mukherjea, J

Bench : Full Bench

Judgement

Derbyshire C.J.

1. As the petitioner in civil Revision Case No. 417 of 1940 is dead and no substitution has been made, that rule must be discharged. As regards the other revision cases, namely Nos. 58 and 418 to 421 of 1940, they must be made absolute. The learned Judge has refused to stay the suit on the ground that the amount of the debt which each of the petitioners was liable to pay was Rs. 17,000 and so above the ordinary jurisdiction limit of the Debt Settlement Board which was Rs. 5000. It must be noted, however, that the Debt Settlement Board has jurisdiction up to Rs. 25,000 where the consent of the Collector has been obtained. The debt of Rs. 17,000, it is alleged, was a joint and several debt of each of the five individual petitioners. The petitioners have alleged, so we are told, to the Debt Settlement Board that each of their debts was several and below Rs. 5000. The learned Judge has refused a stay on the ground that the debt payable by each is Rs. 17,000. It appears to me that Section 18 (1), Bengal Agricultural Debtors Act, applies here, and that provides:

If there is any doubt or dispute as to the existence or amount of any debt, the Board shall decide (whether the debt exists and determine its amount.

2. The learned Judge has decided something which it was the function of the Board to decide. In my view he should have acted u/s 34 and, stayed the suit until the Board decided the amount of the debt and made an award in respect of

it. For those reasons these rules must be made absolute and the suit stayed in accordance with the provisions of the Act.

B.K. Mukherjea, J.

3. I agree.