

(1868) 06 CAL CK 0001

Calcutta High Court

Case No: Special Appeal No. 2287 of 1867

Krishna Chandra Das

APPELLANT

Vs

Mohamed Afzal

RESPONDENT

Date of Decision: June 11, 1868

Judgement

L.S. Jackson, J.

The question raised before us is whether, in a case of award by a Survey Deputy Collector, and confirmed by the Superintendent of Survey, an appeal having been made successively to the Commissioner of Revenue and to the Board of Revenue, both of whom declined to go into the merits of the case, the three years within which a suit may be brought to get rid of the award, is to be calculated from the date of the Survey Officer's award, or that of the final decision. The Judge has held that, because the Commissioner and the Board of Revenue had summarily thrown out the appeal, the only real award was that made by the Survey Officer, and that the plaintiff was, therefore, bound to sue within three years from the date of that award. On this point the special respondent has not addressed any arguments to the Court, and has left the question in our hands. We think that there can be no doubt about it. This being a suit brought for the purpose of contesting the justice of an award made by the Survey Authorities, also for the purpose of obtaining a declaration of the title of the party concerned, the period of limitation is to run (cl. vi., sec. 1, Act XIV of 1859) for three years from the date of the final award or order in the case. There can be no doubt whatever that the final order is that of the Board of Revenue. The law admits an appeal successively from the award of a Survey Officer to his immediate superiors, and to the Commissioner and the Board of Revenue, and the fact that the Board summarily dismissed the appeal without entering into the merits of the case, does not make it the less a final order. In our opinion then, this suit, being brought within three years from the date of that order, was within time.