

**(1925) 07 CAL CK 0005**

**Calcutta High Court**

**Case No:** None

Binod Kumar Ray Chaudhury  
and Others

APPELLANT

Vs

Ram Kishore Mistry and Others

RESPONDENT

---

**Date of Decision:** July 29, 1925

**Citation:** 91 Ind. Cas. 686

**Hon'ble Judges:** Ewart Greaves, J; Cuming, J

**Bench:** Division Bench

---

### **Judgement**

Ewart Greaves, J.

1. Operation, has not passed into their possession, I think that this appeal must succeed and that the learned Subordinate Judge was not justified in holding as he has done that there must be a total suspension of rent.

2. We accordingly set aside the decree of the learned Subordinate Judge but there are other questions to which the learned Subordinate Judge refers in his judgment and a decision of which is necessary before the plaintiffs' claim for rent can succeed. We accordingly send back matter to the learned Subordinate Judge in order that he may dispose of the other questions referred to in his judgment which were left open by him at the time the case was before him. The learned Subordinate Judge and after deciding these questions he will finally dispose of the appeal.

3. We think that the plaintiffs who have succeeded here are entitled to the costs of this appeal. The other costs including the costs of the further hearing before the learned Subordinate Judge will abide the result.

Cuming, J.

4. I agree