

(1918) 06 CAL CK 0008**Calcutta High Court****Case No:** None

Har Kumar Sen and Another

APPELLANT

Vs

Raj Kumar Haldar and Others

RESPONDENT

Date of Decision: June 17, 1918**Citation:** AIR 1919 Cal 981 : 47 Ind. Cas. 173**Hon'ble Judges:** Walmsley, J; Charles Chitty, J**Bench:** Division Bench**Judgement**

1. This is an appeal by the plaintiffs arising out of a suit for rent. The only question raised before us is whether the decree of the Subordinate Judge is right, based as it is on the principle of res judicata. The Judge has, however, not relied entirely on the question of res judicata but, on the evidence, has found that the plaintiffs' contention must fail. On the question of res judicata the authorities of this Court are not entirely unanimous. There are no doubt cases to be found taking more or less contrary views. The tendency, however, of the more recent decisions appears to be that when the question of the annual jama has been raised in a suit and decided, it will be regarded as res judicata in later suits for rent of the same holding. We need not, however, go into that question now, because in this case the Judge has distinctly found that even if the previous judgment does not operate as res judicata, it is good evidence as to the rate of rent. That evidence he weighs against the Record of Bights and the presumption arising therefrom and decides against the plaintiffs. It cannot be said that the learned Judge was wrong in that conclusion. The appeal is accordingly dismissed with costs.