

(1881) 02 CAL CK 0001

Calcutta High Court

Case No: None

Dabi Churn Dutt and
Others

APPELLANT

Vs

Sundhya Mala

RESPONDENT

Date of Decision: Feb. 16, 1881

Citation: (1881) ILR (Cal) 715

Hon'ble Judges: Tottenham, J; Morris, J

Bench: Division Bench

Judgement

Morris, J

1. We think that this appeal must prevail upon the authority of the decisions which have been quoted to us, viz., Mohidin v. Muhammad Ibrahim (1. Mad. H. C. Eep. 245), Nund Eishore Singh v. Hurree Pershad Mundul (13 W. E. 64), Fran Nath Sandyal v. Bam Coomar Sandyal (2 C. L. R. 33), and the Full Bench decision in the case of Gobind Chunder Koondoo v. Taruck Chunder Bose (I. L. R. Cal. 145). It is clear that the self-same right and title, which are in issue in this case, have been substantially in issue and adjudicated upon in the previous case decided between the same parties on the 9th December 1874. In that case the subject of dispute was a plot of land forming part of what is called Bund Mahata ; it was claimed by one side as appertaining to Mermah, and by the other side as appertaining to Simrail Kandi, and each party set up a certain potta from the same lessor in proof of title. It was found that although the land of Bund Mahata appertained to Mouza Mermah, yet, under the potta of the defendant, which was prior in date to that of the present plaintiffs, the superior title rested in the defendant. There, too, in respect of another portion of Bund Mahata, the same title is set forth, and therefore it seems to us that the principle of res judicata applies.

2. The judgments of the lower Courts are reversed, and the suit of the plaintiffs dismissed, with costs in all Courts.