

(1878) 08 CAL CK 0002

Calcutta High Court

Case No: None

Grish Chunder  
Shamunt

APPELLANT

Vs

Ahamudeen

RESPONDENT

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Date of Decision: Aug. 29, 1878

Citation: (1879) ILR (Cal) 350

Hon'ble Judges: Jackson, O.C.J.; Markby, J

Bench: Division Bench

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### Judgement

Jackson, Officiating C.J.

1. It seems clear that, upon the facts which have come out in the course of the hearing, the plaintiff had really no just cause of action against the tenant-defendant. The tenant had paid his rent, as he had been accustomed to pay to the joint owners. It appears that the money found its way to the other co-sharers, who admit, as defendants in the suit, the receipt of it. The plaintiff's remedy is against them, and not against the tenant. It appears to us that the order of the learned Judge who tried the special appeal, must be varied, so far that the suit as against the tenant-defendant must be dismissed with costs.

2. If there be any question remaining to be tried between the plaintiff and the remaining defendants, they ought to be tried, but as it is there must be judgment for the tenant-defendant with costs.