

(1869) 06 CAL CK 0009

Calcutta High Court

Case No: Special Appeal No. 2728 of 1868

Harlal Tewari

APPELLANT

Vs

The Collector of
Bhagulpore and
AnotherRESPONDENT

Date of Decision: June 2, 1869

Judgement

E. Jackson, J.

It appears to me that the decision of the lower appellate Court is correct. The agreements entered into between the Collector and the special appellants were distinctly declared by the Collector at the time and so stated in the agreements to be not final, but subject to the consent of the Board of Revenue. Those agreements were subsequently brought by the Commissioner of the Division to the notice of the Board of Revenue. The Commissioner was of opinion that the arrangements proposed by the Collector were not proper arrangements, and the Board of Revenue concurring with the Commissioner refused to sanction the agreements entered into by the Collector, set them aside and ordered other agreements to be made. It is said that great delay occurred in the action taken by the Commissioner and the Board of Revenue, and it is also said that the Collector in fact never intended that the agreements entered into by him should be subject to the consent of the Board of Revenue; that the agreement was drawn out in an old form which had been long abandoned, and in this way alone had the words "subject to the consent of the Board of Revenue", crept into it by accident; that in fact the Collector never submitted his proceedings for the sanction of the Board, but that under the rules promulgated by the Board itself the Collector had full authority to enter into agreements of this description of his own accord, and without obtaining the sanction of the Board. The lower appellate Court has rejected all these objections, on the ground that the Board of Revenue had full power under the law to interfere in the act of the Collector and that no time having been laid down in the law within which it was to exercise those powers, it could interfere at any time. The agreements in this case referred to the settlement of some lakhiraj land which had been resumed. It had been settled from time to time with different parties, but the

settlement had come to an end, and it was necessary to re-settle the land. The ex-lakhirajdar was the person entitled to the settlement.

2. He put in a petition asking for a settlement at lower rates than had been proposed. The Collector considered that this petition was a refusal to take the settlement at the rates proposed. The Collector accordingly entered into a settlement with the special appellant. The ex-lakhirajdar after some delay brought the matter to the notice of the Commissioner. That officer and the Board of Revenue considered that the ex-lakhirajdar had not refused the settlement, but was entitled to it, and ordered the settlement to be made with him. The special appellant has now brought this suit to recover possession of the resumed estate, alleging that the agreement with him was final, and could not be set aside. As the settlement made with the special appellant was distinctly declared to be subject to the order of the Board of Revenue, and it is not shown or proved in any way that that clause of the agreement crept into the settlement by mistake, we might decide upon that alone that the Board of Revenue had full power to interfere. If the rules of the Board of Revenue are to be looked to, then the Commissioner had full power to interfere, and did interfere in accordance with those rules, though it may be that as there had been some delay before the case was brought to his notice, and as the agreement distinctly referred to the consent of the Board of Revenue, he preferred to obtain the Board's consent before he passed orders in the case. The argument that if the Commissioner did interfere, he was bound to interfere within one month, because that is the period laid down for appeals to him, cannot in my opinion stand. It may be that appeals must be preferred within one month, but no time is laid down in the rules within which the Commissioner was bound to exercise his power of revision, and it was these powers of revision which he exercised in this case, and not his power on appeal. Whether then the Board of Revenue had power itself to interpose in the settlement or not, it does not seem to be denied that it had authority to make rules under which Settlement Officers were to conduct settlement proceedings; and even under those rules the orders passed by the Commissioner were legal. The Commissioner had authority to set aside the settlement, and did do so. The plaintiff must fail in his suit even upon this ground. It is not necessary under these circumstances to examine the law laid down by the Judge as regards the power of the Board of Revenue to set aside such a settlement as this. We dismiss this appeal with costs.

Mitter, J.

I concur. The plaintiff is bound by the terms of his lease and under those terms the Board had full power to interfere.