

(1878) 01 CAL CK 0010

Calcutta High Court

Case No: None

The Empress

APPELLANT

Vs

Thacoor Dyal Sing and
Another

RESPONDENT

Date of Decision: Jan. 9, 1878

Citation: (1878) ILR (Cal) 320

Hon'ble Judges: Mcdonell, J; Ainslie, J

Bench: Division Bench

Judgement

Ainslie, J.

Independently of this there is another reason for which the order must be set aside. In the order of the Magistrate by which he referred the case to the Deputy Magistrate for explanation, it is said that the petitioner before him had asserted that six and twenty villages out of the thirty which formed the subject of the order were actually held in ticca. The Deputy Magistrate in his reply does not deny that there are certain villages in the possession of ticcadars, but he contends that there being a dispute between the contending parties as to collection of rent, it is necessary to decide the question of possession in respect of all the villages held in Khas and ticca jointly, by which he apparently means all the villages, whether held khas or leased out. No doubt it has been held that questions between zemindars as to the right of collecting rents directly from the ryots may be considered by Magistrates, and that this right of so collecting rents is in fact possession within the meaning of Section 530; but that does not apply when there is an intermediate holder who admittedly receives rents from the ryots. Therefore, the order of the Deputy Magistrate is clearly bad as to all the villages which are not held direct by one or other of the zemindars, but are in the possession of farmers. Whether they be six-and-twenty in number or less, is immaterial. It does not appear on this record which villages are held in farm and which are not. Therefore, we are unable to set aside any specific portion of the order of the Deputy Magistrate.

