

(1880) 09 CAL CK 0006

Calcutta High Court

Case No: None

Rohinikant
Bhattacharji and
Others

APPELLANT

Vs

Kashikant
Bhattacharji

RESPONDENT

Date of Decision: Sept. 6, 1880

Acts Referred:

- Bengal Tenancy Act, 1885 - Section 29

Citation: (1881) ILR (Cal) 325

Hon'ble Judges: Richard Garth, C.J; Prinsep, J; Pontifex, J; Morris, J; Mitter, J

Bench: Full Bench

Judgement

Richard Garth, C.J.

We think it clear that the last day on which a suit for the recovery of arrears of rent can be instituted under the Section referred to, is the last day of the third year from the close of the year in which the rent became payable; and as in this case the rent was payable in the month of Cheyt 1280, and the defendant was bound to pay it before the close of the last day of that month, the plaintiff must have brought his suit within three years from that day.

2. We do not quite understand the reasons upon which the cases of Woomesh Chunder Bose v. Surjee Kanto Roy Chowdhry (I. L. R. Cal. 713) proceeded. It seems to have been considered by the learned Judges in that case, that an arrear of rent does not become due until the day after that on which by the terms of the holding the rent is payable. But this, we think, is a fallacy. The rent becomes due at the last moment of the time which is allowed to the tenant for payment. If it is not paid within that time, it becomes an arrear; and continues an arrear until it is paid.

3. The word "arrear" in Section 29 of the Bent Act means "rent in arrear;" and that rent in arrear would, undoubtedly, become due on the last day of the year in which it is payable.
4. The judgment, therefore, of the lower Appellate Court will be modified by limiting the sum which the plaintiffs are entitled to recover, to the rent which became due in the years 1281 and 1282.
5. We think that the appellant should only have his proportionate costs of the hearing before Mr. Justice Morris and Mr. Justice Prinsep, but that he is entitled to the full costs of the hearing.