

(1868) 07 CAL CK 0010

Calcutta High Court

Case No: Special Appeal Nos. 3277 and 3279 of 1867

Jumarat Mandal and Manohara
Dasi

APPELLANT

Vs

Nilkant Sircar

RESPONDENT

Date of Decision: July 3, 1868

Final Decision: Disposed Off

Judgement

Loch, J.

In these cases, Nilkant Sircar sued Jumarat Mandal for rent. He replied that he had sold his jote to Watson and Co. and was not in possession. Watson and Co. contended, they were in possession, but that Nilkant was entitled to recover only a moiety of the rent, the other half being due to Manohara Dasi, the joint putnidar with plaintiff, from whom Watson and Co. had taken a farming lease of her half of the putni. Watson and Co. are, therefore, in the two-fold position of farmer of half of the putni and of tenant of Manohara Dasi's holding, the rent of which is demanded by the plaintiff. Manohara Dasi intervened, but her intervention was disallowed, as she admitted that she had given her share of the putni in farm to Watson and Co.

2. Watson and Co. were not allowed by the Judge either to appear as interveners, or to defend the suit as tenants, the Judge holding that they did not seek to appear in the farmer's capacity, and that they could not be added as parties interested in the suit, the provisions of Act X not permitting such persons to be made parties to the suit.

3. We think the Judge has taken a wrong view of this case. The defendant, Jumarat, should be allowed to prove, if he can, that he is not in possession and not liable for the rent, and if Manohara be not allowed to appear as an intervenor, there can be no objection to Watson and Co. being allowed to appear in that capacity as deriving their title from her as set forth in their petition, and showing that the plaintiff has not received the whole of the rent which he claims. The case is remanded for disposal with reference to the above remarks.