
(1872) 08 CAL CK 0003

Calcutta High Court

Case No: Special Appeal, No. 488 of 1872

Khasro Mandar and
Another

APPELLANT

Vs

Premlal and Others

RESPONDENT

Date of Decision: Aug. 24, 1872

Judgement

Bayley, J.

We think this case must be remanded to the Lower Appellate Court for trial on the merits. It is found by the Lower Appellate Court as a fact that the cause of action arose from the 1st Asar, when it is the custom of the people of that part of the country to begin cultivation. S. 27, Act VIII of 1869, B.C., merely says that the suit is to be instituted within one year of the cause of action. It does not provide according to what calendar that year is to be calculated. On the contrary, cl. 2, s. 2. Act I of 1868, provides that "years" and "months" are to be calculated according to the British calendar, unless the contrary be expressed. Now, although that in an Act expressly referring to Acts passed by the Governor-General in Council, we think that, in the absence of any provision in the Bengal Council Act, the interpretation given in Act I of 1868 must be followed, and following that interpretation, the present suit is in time.

2. The judgment of the Lower Appellate Court is accordingly reversed, and the case remanded for trial on the merits. The costs of this appeal and of the Lower Appellate Court will abide the ultimate result.