

(1908) 06 CAL CK 0015

Calcutta High Court

Case No: Appeals from Appellate Decrees Nos. 2091 and 2092 of 1906

Jatindra Narain Acharya
chowdhary

APPELLANT

Vs

Moharam Akand and others

RESPONDENT

Date of Decision: June 12, 1908

Final Decision: Dismissed

Judgement

1. The present appeals arise out of two suits brought against the Defendants for accounts. The Defendants are said to have been Teshildars of certain Mouzahs which were in litigation and in respect of which a Receiver was appointed who acted from the 2nd June 1900 to 4th September 1902. The Defendants were admittedly appointed by the Receiver and were not Appointed by the present Plaintiff. The suits were brought to recover from the Defendants In each case accounts and any sum due after balancing such accounts, from the 2nd June 1900 to 4th September 1902. The present suits were Instituted on the 25th August 1905, that is to say, a few days only less than 3 years from the date when the Receiver's appointment had terminated and the Defendants were discharged.

2. Both the lower Courts have held that as the Defendants in each case were not agents of the Plaintiff, therefore the Plaintiff was not entitled to bring the suits against them for accounts, and on that ground have dismissed the suits.

3. The Plaintiff has appealed and the only contention which has been advanced before us is that the Receiver during his time of office was acting on behalf of the Plaintiff, who was subsequently found to be the proprietor of the properties, and therefore that the Teshildars who were working under the Receiver were bound to render accounts to the plaintiff.

4. We do not think that this contention is sound. The Defendants in each case appear to have been in the position of sub-agents under the Receiver, who may be regarded as having been the agent to the Plaintiff, and as sub-agents they were

liable to render accounts to the Receiver and not to the present Plaintiff. "We think therefore that the lower Courts are right in holding that the suits as framed must fall. Whether the Plaintiff could have brought suits to recover any sums due from the Defendants as sums received by them on his behalf, It is not necessary to consider, but we have only to observe that in the case of such suits the question would certainly arise whether they were not barred by limitation, the sums realised by the Defendants, if any, having apparently been realised before the 4th September 1902 when the Receiver was discharged from office. The result therefore is that these two appeals are dismissed with costs.