

(1951) 01 CAL CK 0031

Calcutta High Court

Case No: Civil Revision No"s. 815 and 816 of 1950

The Commissioners for the Port
of Calcutta

APPELLANT

Vs

Anil Krishna Mitra and Another

RESPONDENT

Date of Decision: Jan. 11, 1951

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- Presidency Small Cause Courts Act, 1882 - Section 43, 47

Citation: 55 CWN 305

Hon'ble Judges: Guha, J

Bench: Single Bench

Advocate: Nripendra Nath Dutta Roy, for the Appellant;

Judgement

Guha, J.

These two applications under sec. 115 of the CPC are for revision of orders passed by a Presidency Small Causes Court Judge granting extension of time to the Opposite Parties in the matter of orders for possession obtained by the Plaintiffs-Petitioners. It is unnecessary for our present purposes to set out in detail the circumstances which led to extensions of time on different occasions. So far as the extension of time on the present occasion is concerned, it has been contended on behalf of the Plaintiffs-Petitioners that the orders of the learned Judge granting extension are bad on two grounds, namely (1) that the Court had no jurisdiction to extend subsequently the time appointed under sec. 43 of the Presidency Small Causes Courts Act for giving possession and (2) the Opposite Parties before me at whose instance extension of time was granted on the present occasion had no locus stand to maintain any application for time inasmuch as they were not occupants within the meaning of sec. 47 of the Act as explained in the case of Gangaram Bhar v. Santosh Kumar Mitra 53 C.W.N. 187 and Sree Sree Iswar Radha Gobinda Jieu v. Sm. Molina Bala 53 C.W.N. 708.

2. So far as the second point is concerned, the rulings referred to above are clearly in favour of the Plaintiffs-Petitioners and so far as the first point is concerned there is the authority of the case of The Official Trustee of Bengal v. Taj Mohammad 46 C.W.N. 11 in support of it. In these circumstances, I am of opinion that the impugned orders cannot be upheld.

3. In the result, the Rules are made absolute and the orders granting extension of time are set aside. I make no order as to costs. It is directed that possession be given forthwith to the Plaintiffs-Petitioners. Let the records be sent down as soon as possible.