

(1919) 12 CAL CK 0024

Calcutta High Court

Case No: None

Sreemanto Bharasa and Others

APPELLANT

Vs

The Port Canning and Land
Improvement Company Limited
and Another

RESPONDENT

Date of Decision: Dec. 12, 1919

Acts Referred:

- Bengal Tenancy Act, 1885 - Section 20, 3(10)

Citation: 55 Ind. Cas. 330

Hon'ble Judges: Panton, J; Chatterjea, J

Bench: Division Bench

Judgement

1. The only question raised in this case is whether the defendants are settled raiyat within the meaning of Section 20 of the Bengal Tenancy Act.
2. It is found that the defendants have held the land continuously for a period of 12 years and as raiyats, but that the area within which the land is situate (in the Sunderbans) did not constitute a "village" until it was declared as a "village" on the 28th February 1912, only a few months before the suit was instituted.
3. It is contended on behalf of the appellant that although that is so, the question whether a person has held lands situated in a village for a period of 12 years, is to be determined with reference to the state of things at the date of the suit and not during the period of 12 years, and it would be sufficient if the land which has been held by a raiyat is in a "village" just before the suit and need not be in a "village" for the period of 12 years, during which he held the land as a raiyat. But the section lays down that in order that a person may be a settled raiyat he must have for a period of 12 years "continuously as a raiyat held land situate in any village." If this declaration had not been made, the defendant could not have been held to be a settled raiyat, and the fact that a few months prior to the institution of the suit, the

area within which the land is situated was declared to be a "village" cannot have a retrospective effect; and we think that under the section it is necessary that the holding of the land by the raiyat for a period of 12 years must be holding of land in a "village" during the whole of that period.

4. A village is defined in Section 3, Clause (10) of the Bengal Tenancy Act, and our attention has been drawn to an unreported case (Second Appeal No. 2451 of 1905) decided on the 27th June 1907 by Rampini and Sharfuddin, JJ., where it was held that unless the land is situated within the boundaries of a village as defined in Section 3, Clause (10) of the Bengal Tenancy Act, a person holding the land cannot be a settled raiyat. That case does not decide the question now before us. But having regard to the wording of the Section, we think that the land must be held in a "village" for the period of 12 years in order that a person may be a settled raiyat.

5. The result is that the appeal is dismissed with costs-one gold mohur.