

**(1924) 05 CAL CK 0035****Calcutta High Court****Case No:** None

Bharat Chandra Dhupi

APPELLANT

Vs

Hari Krishna Patari and Another

RESPONDENT

**Date of Decision:** May 19, 1924**Acts Referred:**

- Bengal Tenancy Act, 1885 - Section 153

**Citation:** 82 Ind. Cas. 829**Hon'ble Judges:** William Ewart Greaves, J; Chakravarti, J**Bench:** Division Bench**Judgement**

Greaves, J.

This is an appeal by the defendant against a decision of the District Judge of Noakhali reversing a decision of the Munsif. The suit out of which this appeal arises was brought to recover rent from the defendant. The suit was valued at Rs. 79-13 annas.

2. A preliminary objection was taken before us that having regard to the provisions of Section 153 of the Bengal Tenancy Act no appeal lies as the value is below Rs. 100. It was urged before us on behalf of the appellant that the preliminary objection is not well founded and we have been referred to the case of Sudhanya Santra v. Basanta Kumar Sirkar 64 Ind. Cas. 733 : 49 C. 538 : 26 C.W.N. 96 : 34 C.L.J.579 ; AIR (1922) (C.) 417 as an answer to the preliminary objection. It seems to us that the case does not help the appellant. Section 153 is clearly a bar to the present appeal unless it can be shown that a question arose in the suit as to the amount of rent. We cannot find that this was so, for a reference to the issues raised in the First Court shows that the only issues raised were (1) whether the suits were bad for defects of parties and (2) whether certain pleas of payments were true. Consequently there was no question raised as to the amount of rent as was raised in the decision in Sudhanya Santra v. Basanta Kumar Sirkar 64 Ind. Cas. 733 : 49 C. 538 : 26 C.W.N. 96 : 34 C.L.J.579 ; AIR (1922) (C.) 417 nor was such a question decided in the suit.

3. In the circumstances the preliminary objection must prevail and the appeal fails and must be dismissed with costs.

Chakravarti, J.

4. I agree.