

(1920) 05 CAL CK 0045

Calcutta High Court

Case No: None

Dinabandhu Maiti

APPELLANT

Vs

Bishnu Bewa and Others

RESPONDENT

Date of Decision: May 13, 1920

Citation: 60 Ind. Cas. 715

Hon'ble Judges: Panton, J; N.R. Chatterjea, J

Bench: Division Bench

Judgement

1. The question involved in this case is, whether the suit upon the mortgage-bond out; of which this appeal arises, is a suit for enforcement of money charged upon mortgaged property within the meaning of Article 182 of the Limitation Act.
2. The mortgagor took a loan of a certain quantity of paddy and agreed to re pay it together with interest thereon at so many kathas per Kuri per year and fan her agreed that, on default of payment within the time stipulated, the mortgage would be entitled to realise the money-the subject matter of the claim together with costs by gale of the property which was mortgaged to secure the loan, and that if that was insufficient to satisfy the debt, by attachment and sale of other properties of the mortgagor.,
3. The suit was brought more than six years after, and within twelve years of the due date of payment.
4. The Court below, relying on the decision in the case of Rash Bihari Das v. khunj bihari patra 37 Ind. Cas. 805 : 24 C.L.J. 348 held that the suit was barred by limitation. That case bus been considered and distinguished in several cases: See Sripoti Lal Dutt v. Sarat Chandra mondal 46 Ind. Cas. 78 : 22 C.W.N. 790 Sridhar Chandra Maii v. Ram Gobinda Jana 50 Ind. Cas. 608 : 29 C.L.J. 68 Indra Narain Shao v. Diiabar Samanta 5 Ind. Cas. 849 : 23 C.W.N. 949 : 47 C. 125 and Jogendra Nath Singh v, Mohan Lal Khan, 58 Ind. Cas. 995 : 23 C.W.N. 951

