

**(1992) 06 CAL CK 0022**

**Calcutta High Court**

**Case No:** None

Raj Kumar Rowla and Others

APPELLANT

Vs

Manabendra Banerjee

RESPONDENT

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**Date of Decision:** June 1, 1992

**Acts Referred:**

- Bengal Money Lenders Act, 1940 - Section 38
- Civil Procedure Code, 1908 (CPC) - Section 16

**Citation:** 96 CWN 1241

**Hon'ble Judges:** S K. Mookherjee, J

**Bench:** Single Bench

**Advocate:** S.P. Roy Chowdhury and A.K. Rakshit, for the Appellant; Sudhish Dasgupta and A.K. Roy, for the Respondent

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### **Judgement**

S.K. Mookherjee, J.

This Revisional application is directed against Order No. 9 dated 3rd October, 1991, passed by the learned Assistant District Judge, Second Court, Alipore, in Misc. Case No. 28 of 1991. By the impugned order, the learned Assistant District Judge rejected an application challenging the territorial jurisdiction of the Court in entertaining the opposite party's application u/s 38 of the Bengal Money Lenders Act and/or for dismissal and /or for taking the same off the file and return thereof. We have heard Mr. Roy Chowdhury, in support of the Revisional Application, and Mr. Dasgupta, on behalf of the contesting opposite party. Section 38 of the Bengal Money Lenders Act vests jurisdiction in Court which will have jurisdiction to entertain a suit of the borrower for recovery of the loan, for taking accounts and for declaring after determination the amounts due to the lender. In the facts of the present case, in our view, clause (c) of Section 16 of the CPC will apply, since, admittedly, a property within the jurisdiction of the Court of the learned Assistant District Judge had been given in equitable mortgage as security for the said loan, on application of the said clause (c) of section 16 of the CPC a suit would have been maintainable in the

concerned Court. We are, therefore, of the view that there is no merit or substance in the objection as to jurisdiction raised, on behalf of the defendant. Accordingly, we dismiss the Revisional Application and affirm the impugned order.

2. There will be no order as to costs.

Let xerox copies of this order be handed over to the learned Advocates, for both the parties, on their usual undertakings to apply for and obtain urgent certified copies.

A.K. Bhattacharji, J.

I agree.