

(1909) 04 CAL CK 0027

Calcutta High Court

Case No: None

Bejoy Madhub Chowdhury and
Another

APPELLANT

Vs

Chandra Nath Chuckerbutty and
Others

RESPONDENT

Date of Decision: April 17, 1909

Judgement

1. The case of Sheikh Mansar Ali v. Matiullah 12 C.W.N. 896 : 8 Cr.L.J. 202, upon which the learned Vakil for the petitioner relies, was one where the Magistrate had not given sufficient time for regular proceedings to be followed, and the learned Judges; therefore, set aside the order, attaching the subject of dispute, u/s 146, Criminal Procedure Code. A similar order has been passed in the case now before us; but we are of opinion that the Extra Assistant Commissioner of Sunamgunge did give sufficient time to the parties. He drew up proceedings on the 1st September 1908, but the parties did not file written statements and the first party, the petitioners, prayed for a local investigation. That prayer was not acceded to, because, as we find in the explanation now submitted, the disputed land was situated at a distance of two day's journey from Sunatngunge. As neither party adduced any evidence, and an interval of more than two. months had elapsed, the Magistrate on the 7th November passed an order u/s 146 of the Code. We are constrained to say that such an order was not without jurisdiction.

We accordingly discharge the rule.