

(1916) 12 CAL CK 0013

Calcutta High Court

Case No: None

Upendra Nath Ghose

APPELLANT

Vs

Sarada Sundari Ghose and
Another

RESPONDENT

Date of Decision: Dec. 6, 1916

Citation: 36 Ind. Cas. 883

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

Bench: Division Bench

Judgement

1. This appeal arises out of a proceeding u/s 106 of the Bengal Tenancy Act for rectification of an entry in the Record of Rights describing the defendants as tenure holders. Plaintiff asserted that the defendants were raiyats without any transferable right. The Courts below found that the presumption arising from the entry in the Record of Rights had not been rebutted and the suit was accordingly dismissed.

2. The only question thus has been argued before us is that the Court of first instance wrongly disallowed certain interrogatories which the plaintiff wanted to deliver to the defendants. Now under Order XI, Rule 2, Code of Civil Procedure, on an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court." That was done in the present case. It is true the Munsif did not state in the order the reasons why he disallowed the interrogatories, but the learned District Judge points out that they were fishing interrogatories, which practically asked the defendants by what evidence they intended to support their case and that for this reason they were rightly disallowed." No doubt every party in a suit is entitled to know the nature of his opponent's case. In the present case there was no doubt as to the precise case set up by the defendants in their written statement. Plaintiff really wanted to know what the evidence was upon which the defendants rested their case, but he is not entitled to know the evidence upon which the defendants relied. The interrogatories show that they are all directed to ascertain what documents the defendants had in

support of their case and the particulars of those documents. This the plaintiff was not entitled to and the Court was justified in disallowing the interrogatories, although it did not clearly state in its order the reasons for disallowing the same. The plaintiff might have proceeded under Order XI, Rule 12, Code of Civil Procedure, for discovery of documents; but he did not do so.

3. The appeal fails and is accordingly dismissed