

(1912) 06 CAL CK 0056

Calcutta High Court

Case No: None

Ishan Chandra Nandi and
Another

APPELLANT

Vs

Gour Mohan Poddar and Others

RESPONDENT

Date of Decision: June 21, 1912

Acts Referred:

- Bengal Putni Taluks Regulation, 1819 - Section 11

Citation: 15 Ind. Cas. 468

Hon'ble Judges: Chapman, J; Carnduff, J

Bench: Division Bench

Judgement

1. This appeal arises out of a suit brought by the purchaser of a putni taluk under the Bengal Putni Taluk Regulation, 1819, for the recovery of khas possession of certain land within the putni from the appellants who are mirasdars.

2. The case for the appellant, is that, although they are holders of a miras tenure, they were raiyats before they obtained that tenure and, now that the tenure is avoided by the sale under the Regulation, are entitled to resume the status of raiyats.

3. It is, however, unnecessary for us to consider whether the raiyati rights of the appellants were affected by the creation of the miras tenure; for, even if the appellants are to be regarded as raiyats now, they are not protected from ejection under Section 11 of the Regulation unless they are khudkasht (that is, resident) raiyats. This was expressly decided by this Court in Jogeshwar Mazumdar v. Abed Mahomed Sirkar 3 C.W.N. 13.

4. Now, the lands in suit are situated wholly in Mauznh Kacharitola, as is stated in the plaint and admitted in the written statement, and the finding of both Courts is that the appellants are residents of Paikpara, and not of Kacharitola. The appellants were, therefore, liable to be ejected, and the suit for khas possession against them

was rightly decreed.

5. This appeal must, therefore, be dismissed with costs.