

(1920) 08 CAL CK 0055

Calcutta High Court

Case No: None

Tara Prosanna Bhattacharjee
Chowdhury and on his Death his
Heirs and Legal representatives
Rama Prosanna Bhattacharjee
Chowdhury and Others

APPELLANT

Vs

Nazir Mamud Sardar and Others

RESPONDENT

Date of Decision: Aug. 6, 1920

Citation: 61 Ind. Cas. 345

Hon'ble Judges: Newbould, J; Abdur Majid, J

Bench: Division Bench

Judgement

1. Though it appears that at one time there was some diversity of opinion the later rulings are in support of the appellants' contention that the plaintiff is entitled to a decree at the rate of interest, one anna per rupee per month, stipulated in the kabuliyat and that the finding that this rate of interest is hard and unconscionable and penal is not sufficient to justify a departure from the terms of the contract. We may refer to the unreported cases, S.A. 641 of 1919 decided on the 23rd July Act, S.A. 1672 of decided on the 3rd January Act and S.A. 287 of 1917 decided on the 7th May 1919 by one of us.

2. On behalf of the respondents attention has been drawn to the case of Administrator-General of Bengal v. Asraf Ali 28 C. 227 We are unable to agree with that decision, if we must hold that a tenant holding over is not bound by the terms of the lease under which his predecessor-in-interest came into possession.

3. We accordingly decree this appeal. The plaintiff's suit will be decreed in full with costs in all Courts including this Court.