

(1919) 07 CAL CK 0033

Calcutta High Court

Case No: None

Nalinakshya Dutta

APPELLANT

Vs

Dhan Krishna Mondal and
AnotherRESPONDENT

Date of Decision: July 25, 1919**Acts Referred:**

- Bengal Tenancy Act, 1885 - Section 153

Citation: 56 Ind. Cas. 282**Hon'ble Judges:** Syed Shamsul Huda, J**Bench:** Single Bench

Judgement

Syed Shamsul Huda, J.

In this case the appeal is mainly based on the ground that having regard to the provisions of Section 153 of the Bengal Tenancy Act, no appeal lay before the learned District Judge, and that, therefore, his decision reversing the decree of the first Court was without jurisdiction. The Court below relied upon an unreported decision of this Court which was referred to in Mr. Sen's book on the Bengal Tenancy Act. I had the advantage of reading the judgment of Mr. Justice Mitra in that case and it seems to me that on the authority of that decision, with which I agree, an appeal lay to the Court below. Therefore, the main ground of appeal fails.

2. It has been next argued that the learned Judge in dealing with the appeal came to certain findings different from those arrived at by the first Court in connection with a title suit connected with the rent suit out of which this appeal arises. In that suit the decision of the Munsif was accepted by the parties and no one appealed. But that did not preclude the learned Judge from dealing with the appeal that was filed before him and from going into such matters as were necessary for the decision of the appeal. In doing so he has not decided anything that was outside the scope of the suit or of the appeal.

3. This appeal, therefore, fails and is dismissed with costs.