

(1924) 03 CAL CK 0056

Calcutta High Court

Case No: None

Hon''ble Raja Reshee Case Law

APPELLANT

Vs

Ambika Dassi and Others

RESPONDENT

Date of Decision: March 5, 1924

Acts Referred:

- Bengal Tenancy Act, 1885 - Section 30(b)

Citation: 79 Ind. Cas. 567

Hon'ble Judges: Suhrawardy, J; Chotzner, J

Bench: Division Bench

Judgement

1. In these appeals the question raised is whether the appellant is entitled to enhancement of rent u/s 304 (b), Bengal Tenancy Act. He applied under Section. 105, Bengal Tenancy Act, for settlement of fair and equitable rent and claimed enhancement of the rent of the holdings to which these appeals relate on the ground of rise in the price of staple food crops. The Revenue Officer, as well as the Special Judge on appeal, have dismissed the plaintiff's claim. The Revenue Officer records his reason these words "Serials 2, 14 and 28 consist of bastus, dobas, nalas, patits, &c., growing no agricultural crop. So in these cases no enhancement u/s 30 (&) is allowed at all." The learned Special Judge on appeal observes, it appears, that all the above serials except 48 are homesteads, ditches, and nalas, patit, growing no agricultural crop. I think that he lower Court was right in disallowing tenhancement u/s 30(b). It has been decided in many cases in this Court that the fact that a certain holding consists of homesteads, or patit lands or lands which yield no crop is no ground for disallowing enhancement of the rent of the tenancy. The authority for this view is to be found in the case of Raja Reshee Case Law v. Chintamoni Dalai 70 Ind. Cas. 535 : 36 C.L.J. 305 : (1922) A.I.R.(C) 510 : 27 C.W.N. 962. This case has been followed in several subsequent cases. As the case-law stands at present, it must be taken that the grounds assigned by the Court below for refusing enhancement is not justified in law.

2. The result is that these appeals are allowed, the judgments and ".decrees of the Court below are set aside and the cases remitted to the Court of first instance for decision on the merits.

3. We are informed that in Section 23 of 1921, respondent No. 6 who is said to be interested in serial No. 28, respondent No. 7 Thakur Das who is interested in serial No. 32, and respondents Nos. 17 and 18 Swarnamayee Bewa and Golak Sen who are interested in serial No. 67, died during the pendency of this appeal and their heirs have not been brought on the record. The appeal, in so far as it relates to those respondents, is therefore dismissed. We make no order as to the costs of these appeals.