

(1925) 03 CAL CK 0070**Calcutta High Court****Case No:** None

Kumar Arun Chandra Sinha
Bahadur and Others

APPELLANT**Vs**

Hemanta Kumar Banerjee and
Others

RESPONDENT**Date of Decision:** March 2, 1925**Acts Referred:**

- Bengal Tenancy Act, 1885 - Section 105

Citation: 98 Ind. Cas. 663**Hon'ble Judges:** William Ewart Greaves, J; Chakravarti, J**Bench:** Division Bench

Judgement

Chakravarti, J.

This appeal arises out of a suit u/s 105 of the Bengal Tenancy Act, under which the present appellant filed an application for additional rent for an additional area in a tenure. The record shows that the lands of three villages were within this putni. The landlord's Case was that the putnidars were in possession of more lands than they look settlement of. The tenure was created by a deed, dated 1841. The defendant's case was that they were in possession of the putni as recorded in the Record of Rights and that the putni patta shows that, the putni comprised the land of Lot Sabek Khotar. The plaintiffs based their case on the ground that there were some other Villages which were in the possession of the defendants. The plaintiffs even in this proceeding did not state that Lot Sabek Khotar really included only one mouza of Sabek Khotar and not more. Further than this the plaintiffs at the trial stated that they did not wish to challenge the Record of Rights and in the plaint that they filed they had deliberately stated that the lands of this jama were of more villages than one. Besides the putni patta no further evidence was adduced in this case. On the point as to what the Lot Sabek Khotar meant it is well-known that a "lot" usually in the parlance of putni patta means a group of villages. As I have stated the plaintiffs

did not start their case on the basis that Lot Sabek Khotar only meant one village and not more. The defendants are admittedly in possession now and were in possession when the Record of Rights was made and no attempt was made to show that the defendants had subsequently to the putni taken possession of these lands and included them in the putni. In this state of things the Courts below dismissed the plaintiffs" suit. We cannot say that the Courts below were wrong. It was open to the plaintiffs to challenge the Record of Rights and further it was open to them to explain the putni patta that the Lot Sabek Khotar was included within one village and not more.

2. We think that the judgment of the lower Appellate Court was right and the appeal is accordingly dismissed with costs, hearing fee, one gold mohur.

Greaves, J.

3. I agree.