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(1924) 03 CAL CK 0059

Calcutta High Court

Case No: None

Debendra Nath Chowdhury and Another		APPELLANT
	Vs	
The Chairman, Local Board		RESPONDENT

Date of Decision: March 6, 1924

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 139A

Citation: 81 Ind. Cas. 904

Hon'ble Judges: Panton, J; Greaves, J

Bench: Division Bench

Judgement

1. The dispute in this case is between the petitioners and the Local Board. The Local Board''s case was that the petitioners had encroached on land at the side of a road, which belonged to the Local Board and that as a result of such encroachment the. Local Board drain which ran by the side of the road had been blocked. Both the Courts have found in favour of the Local Board holding upon the evidence, that the Local Board had been in possession of the land encroached upon by the petitioners for some 12 years and an order u/s 133 has accordingly been passed.

2. The only question that arises is whether under the circumstances this order was rightly made. It is admitted by both parties who are before us that according to the Settlement Record, the land alleged to have been encroached on by the petitioners, is the petitioners'' land. Accordingly, the only question that really arises is whether this is reliable evidence within the meaning of Section 139A of the Code of Criminal Procedure. If it is a reliable evidence within the meaning of the words of that section then clearly the Criminal Court should have stayed the proceedings and left the parties to have the matter decided in a Civil Court. In our opinion, once the Settlement Record was produced showing that this land was the petitioners''

whether that record is right or wrong the Criminal Court should have stayed the proceedings and left the parties to have their rights decided in a Civil suit.

3. In this view we made the Rule absolute.