

(1880) 06 CAL CK 0010

Calcutta High Court

Case No: None

Konaram Gaonburah

APPELLANT

Vs

Dhatoaram Thakoor
and Another

RESPONDENT

Date of Decision: June 28, 1880

Citation: (1881) ILR (Cal) 196

Hon'ble Judges: Prinsep, J; Morris, J

Bench: Division Bench

Judgement

Morris, J.

We are unable to assent to the proposition laid down by the lower Appellate Court in this case, that a Government ryot cannot acquire a right of occupancy in lands cultivated by him under the Rent Law in force in Assam. The law in force in Assam is, as we understand, Act X of 1859, and it is in operation without any reservation; consequently, u/s 6, a tenant contracting with the Government can certainly acquire a right of occupancy. The Government is not in the position of a proprietor holding land khamar, nijjote, or seer in the entire province. As in the other settled provinces of Bengal, it gives out the land in settlement ryotwar, and neither under the settlement, nor under the law, is the ryot prevented from acquiring, after twelve years, a right of occupancy. The case must, therefore, be remanded to the lower Court for retrial. It will be necessary, as the lower Appellate Court has not expressed any opinion on the finding of the first Court on the point, to determine whether, in respect of the two plots of land held by him, the plaintiff has a right of occupancy...

2. The case is, therefore, remanded, in order that the Court below may come to a finding on this question of the right of occupancy. Costs will abide the event.