

(1867) 02 CAL CK 0005

Calcutta High Court

Case No: Special Appeal No. 146 of 1865

Hurryhur Mookerjee

APPELLANT

Vs

Mohesh Chunder Banerjee and
Others

RESPONDENT

Date of Decision: Feb. 22, 1867

Final Decision: Dismissed

Judgement

Sir Barnes Peacock, Kt., C.J.

It appears to us that ryots who hold land at fixed rates of rent, which have not been changed from the time of the permanent settlement, are not liable to have their rents enhanced even at the suit of a purchaser at a sale for arrears of revenue under Act I of 1845. In the case cited, Poolin Behary Sein v. Luteefoonissa Beebee Marsh. Rep., 107, the attention of the Court was not drawn to that part of s. 1, Act X of 1859, which says, that "such parts of s. 26 of Act I of 1845 as relate to the enhancement of rents and the ejectment of tenants by the purchaser of an estate sold for arrears of Government revenue, are declared subject to the following modifications." One of those modifications is that contained in s. 3, viz., that a ryot who has held at a fixed rate of rent which has not been changed from the time of the permanent settlement is entitled to receive a pottah at that rate. If he is entitled to receive a pottah at that rate he is net liable to have his rent enhanced. The appeal will be dismissed with costs.

(1) See Beng. Act VIII of 1869, ss. 3, 4. (2) Act I of 1845 was repealed by Act XI of 1859, s. 1. The right of purchasers at sales under the latter Act are declared by ss. 37, 52, 53 and 54.