

(1863) 08 CAL CK 0003

Calcutta High Court

Case No: None

Raghu Ram Biswas

APPELLANT

Vs

Ram Chandra Dobay

RESPONDENT

Date of Decision: Aug. 26, 1863

Judgement

Sir Barnes Peacock, Kt., C.J.

We think it clear in this case that the Judge of the Small Cause Court had jurisdiction to try this question. Although the question of title under the maurasi patta arose incidentally, the Judge had power to try the question as to the amount of damages. His judgment will not be conclusive, except so far as regards the right to the damages claimed in the suit. By the English County Court Act express provision is made that County Courts shall not try a case in which the title to the freehold comes into question, unless by agreement of the parties. But there is no such provision in the Indian Act. We think, therefore, that the Small Cause Courts have jurisdiction to try questions of title which incidentally arise in suits cognizable by them.

⁽¹⁾ This Act has been repealed by Act XI of 1865, s. 2, See s. 6 of that Act.