

(1868) 03 CAL CK 0004

Calcutta High Court

Case No: Special Appeal No. 1534 of 1867

Jan Ali Chowdhry

APPELLANT

Vs

Nittyenund Bose

RESPONDENT

Date of Decision: March 19, 1868

Judgement

Sir Barnes Peacock, Kt., C.J.

I think that this is a clear case. S. 78 applies to all cases of suits for the ejectment of a ryot or for the cancellation of a lease for the non-payment of rent. It applies not only to cases in which it is sought to eject a ryot under s. 21 for non-payment of rent or for the cancellation of a lease for non-payment of rent under s. 22, but also to cases in which it is sought to cancel a lease or to eject a ryot for non-payment of rent under an express stipulation contained in the engagement between the parties that, in the event of non-payment, the lease shall be forfeited. The words are general "in all cases of suits," and not in all cases of suits brought for the purpose of enforcing the provisions of s. 22. The appeal will be dismissed with costs.

¹ See ss. 22, 23 and 52 of Beng. Act VIII of 1869.