
(1878) 05 CAL CK 0014

Calcutta High Court

Case No: None

Purran Chunder
Ghose

APPELLANT

Vs

Mutty Lall Ghose
Jahira

RESPONDENT

Date of Decision: May 9, 1878

Acts Referred:

- Limitation Act, 1963 - Section 6

Citation: (1879) ILR (Cal) 50

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

Bench: Division Bench

Judgement

Markby, J.

This is a suit for arrears of rent under Beng. Act VIII of 1869. It has been dismissed by the Court of first instance as barred by limitation; and plaintiff's appeal having been dismissed, he has brought the matter before us in special appeal,

2. Section 29 of the present Rent Law declares that "suits for the recovery of arrears of rent shall be instituted within three years" from certain specified dates; and, like Act X of 1859, which it has replaced, contains no provisions for relaxing that term, such as are contained in the general law of limitation.

3. On the last day allowed for filing the plaint in the suit now before us the Courts were closed, because it was a close holiday; and the plaint was presented on the next and first open day. Now, under the general law of limitation (Act IX of 1871), this would be allowed, as special provision is made for such a contingency; but the matter for consideration is whether that law applies to suits under the Rent Law, and whether the law of limitation for such suit is contained only in the Rent Law.

4. The Judgment of the Full Bench in the case of Poulson v. Modhoosoodun Paul Chowdhry 2 W.R., Act X, Rul. 21, on which both the lower Courts have relied in

dismissing this suit, has clearly laid down that the general law of limitation does not apply to rent suits under Act X of 1859; but it is argued before us that the terms of the general law of limitation are not now (Act IX of 1871) the same as they were then (Act XIV of 1859), and that the Rent Law of 1859 has also been replaced by Beng. Act VIII of 1869, which has made rent suits triable not by Revenue but by Civil Courts.

5. We may at once dismiss the objection arising out of any alteration of jurisdiction, since that cannot affect the point in dispute, the terms of the two Rent Acts being similar in providing for limitation in suits for the recovery of arrears of rent; nor does the mere fact that limitation for arrears of rent is provided for in Scheduleii, Article 110 of Act IX of 1871, in our opinion, affect the reasoning on which the judgment of the Full Bench proceeded. If it had been the intention of the Legislature to extend the general law of limitation to suits for the recovery of arrears of rent brought under Beng. Act VIII, 1869, we think that the provisions of the Rent Act relating to limitation would have been entered in the repealing schedule to the Act of 1871. As they are not so repealed, they would seem to be saved by Section 6 of that Act.

6. We, therefore, think that this suit was rightly dismissed, because it was not brought strictly within the term of three years prescribed by Section 29, Beng. Act VIII of 1869; and we dismiss this special appeal.