
(1881) 03 CAL CK 0030

Calcutta High Court

Case No: None

Kadumbinee Dassee

APPELLANT

Vs

Jadoo Shat and Others

RESPONDENT

Date of Decision: March 28, 1881

Citation: (1881) ILR (Cal) 150

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

Bench: Division Bench

Judgement

Cunningham, J.

The plaintiff in this case, on behalf of her minor daughter-in-law, along with other co-owners, was in the habit of receiving rent jointly through a common agent. The other co-owners dismissed this agent and appointed another, and thereupon the plaintiff gave notice to the tenants, not to pay her share of the rent, and she now seeks to enforce payment against them. This it appears to me is contrary to the law laid down in a series of decisions, and especially in the Full Bench decision-Guni Mahomed v. Moran (I. L. R. Cal. 96; S.C., 2 C. L. R. 373).

2. I think, therefore, that the decision of the lower Court must be set aside and the plaintiff's suit dismissed with all costs.

3. This judgment will govern appeal from Appellate Decree No. 115 of 1880.

Prinsep, J.

The decision of the lower Appellate Court on this point is clearly wrong, for, as pointed out in the Full Bench decision, Guni Mahomed v. Moran (I. L. R. Cal. 96; S.C., 2 C. L. R. 373), "it has been constantly held in this Court, and must be considered now as well established law, that each co-sharer may bring a separate suit against the tenant for his share of the rent. But in the absence of such an arrangement (that is, an arrangement between the tenant and the co-sharers) under which the tenant agrees to pay a portion of the rent to each co-sharer in respect of this separate share, it is equally clear that no such suit can be maintained."

2. In the present case the plaintiff, having hitherto realized rent jointly with other co-sharers, seeks to realize it separately from the tenant on her alleged specific share without any such arrangement. She clearly could not do so, and should follow the course laid down in *Tara Ghunder Banerjee v. Ameer Mundul* (22 W. R. 394).

3. I, therefore, agree in dismissing the plaintiff's suit with costs in all the Courts.