

(1869) 01 CAL CK 0027

Calcutta High Court

Case No: Special Appeals Nos. 2120 and 2135 of 1868

Syed Anwar Ali

APPELLANT

Vs

Sheikh Ramzan Ali

RESPONDENT

Date of Decision: Jan. 20, 1869

Judgement

Kemp, J.

In these two special appeals, the same parties were plaintiffs and defendants in the Court below.--The Judge has given the plaintiff a decree, in confirmation of the decree of the first Court. One point taken in special appeal in the two cases is, that the suit is not cognizable by a Civil Court, and that it ought to have been brought under clause 6 of section 23 of Act X of 1859. This objection was not taken below; but as it is a question of jurisdiction, we shall notice it. The suit was not to recover the occupancy or possession of any land, farm, or tenure from which the ryot, fanner, or tenant has been illegally ejected by the person entitled to receive rent for the same. It was a suit for a declaration of the right of the plaintiff to a half share in the produce of certain trees, on the allegation that these trees were planted by the person, whose rights had passed to the plaintiff by a bill of sale. This ground of special appeal is clearly untenable.