

**(1868) 08 CAL CK 0022**

**Calcutta High Court**

**Case No:** Special Appeal No. 3099 of 1867

Ram Chandra Jana

APPELLANT

Vs

Jiban Chandra Jana

RESPONDENT

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**Date of Decision:** Aug. 26, 1868

**Final Decision:** Dismissed

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### **Judgement**

L.S. Jackson, J.

We think the decision of the Court below must be affirmed. The plaintiff had such an interest in the land and in the crops as fully entitled him to maintain the suit. The act done by the defendant was, doubtless, such as to make him liable in damages. Indeed, the contest in the Court below was not upon this point. It was not contended that the damage caused to the plaintiff could not be directly traced to the act of the defendant. The whole case for the latter was that he had done no more than keep up an old existing embankment, in which matter the Courts below have expressly found against him. Then as to the assessment of damages, it is urged that the area of land, on which the damage was computed, is larger than that which the plaintiff's pottah covers: we think that is no concern of the defendants. The area of land cultivated by the plaintiff's under-tenants was ascertained on a local investigation. The rate per biga was not disputed, and the amount, therefore, is not a matter which we can deal with in special appeal.

2. The appeal must, therefore, be dismissed with costs.