

(1880) 06 CAL CK 0020

Calcutta High Court

Case No: None

Obhoy Churn Bagchi

APPELLANT

Vs

Chunder Sikhur
Bundopadhyo and
Others

RESPONDENT

Date of Decision: June 8, 1880

Citation: (1881) ILR (Cal) 8

Hon'ble Judges: Richard Garth, C.J; Tottenham, J; Morris, J; Mitter, J; Jackson, J

Bench: Full Bench

Judgement

Richard Garth, C.J.

As the relief which has been decreed in these suits is for the specific recovery of land, irrespective of any damages for the plaintiff's dispossession, we consider that the 87th section of Beng. Act III of 1864 does not apply.

2. That section, as it seems to us, is applicable only in those cases where the plaintiff claims damages or compensation for some wrongful act committed by the Commissioners or their officers, in the exercise, or the honestly supposed exercise, of their statutory powers.

3. The notice in the earlier part of the section is meant to give the defendant the opportunity of making some pecuniary amends for the wrong, without incurring the cost of litigation.

4. We think that it could hardly have been the intention of the legislature to allow the Commissioners (even by mistake) to appropriate the lands of private persons without paying for them, and to hold those lands for ever as against the true owners, unless the latter should happen to be sufficiently watchful to discover the aggression in time to take steps to protect their property within so short a period as two months.

5. The appeals will therefore be dismissed with costs, including the costs of this reference.