
(1871) 04 CAL CK 0006

Calcutta High Court

Case No: Special Appeal No. 2690 of 1870

Lakhi Narayan Addi

APPELLANT

Vs

Brajanath Kundu
Chowdhary and Others

RESPONDENT

Date of Decision: April 24, 1871

Final Decision: Dismissed

Judgement

Glover, J.

There are no grounds for this special appeal. The Courts below have found as a fact, in the first place, that the plaintiff's purchase from his vendor is proved; and, secondly, that that vendor and his family's possession was shown to have existed for nearly, if not quite, a century, and that during that time rent was paid regularly for the holding to the zemindar. No doubt, the patta is not filed, but the lower Courts have presumed, from the length of time during which the plaintiff and his predecessor have held this land, that they must have held under a patta, and there is nothing illegal in the presumption that the plaintiff's vendor had a maurasi right, which he was capable of transferring to the plaintiff. The first Court has also found, and the Subordinate Judge on appeal has concurred in that finding, that the defendant had not proved his case that the land was patit. Both the points taken by the special appellant therefore fail. Two cases have been referred to by the pleader for the special appellant-- [Thakur Mahabir Prasad Vs. Shiu Dayalpur and Another](#) , and Ramdhan Chuckerbutty v. Srimati Komal Tara 3 B.L.R., A.C., 99--which show that the mere fact of possession for a number of years is not sufficient to prove a mokurrari title. Nobody supposes that mere possession for eight, ten, or even twenty years would be sufficient to create a mokurrari title; but that is not the point on which the lower Courts have gone. They have presumed the fact of the maurasi holding from the fact of the land having been in the possession of the same family on continuous payment of rent to the zemindar for nearly a hundred years.

2. The special appeal is dismissed with costs.