

(1880) 09 CAL CK 0009

Calcutta High Court

Case No: None

Gobind Chunder
Nundi

APPELLANT

Vs

Mozhuruddin

RESPONDENT

Date of Decision: Sept. 15, 1880

Citation: (1881) ILR (Cal) 436

Hon'ble Judges: Tottenham, J; Maclean, J

Bench: Division Bench

Judgement

Tottenham, J.

The point pressed upon us by the learned Counsel for the appellant is, that there is nothing in the law of this country warranting forfeiture of his holding as the penalty of denial by a ryot of his landlord's title.

2. The lower Appellate Court has decreed the defendant's (appellant's) eviction for denying the plaintiff's title, though well aware of it.

3. There are numerous reported cases in which this Court has affirmed similar decrees passed under the same circumstances, and there being no contrary ruling, we think that we are bound to follow these decisions, notwithstanding that the learned Counsel has contended that the point was never really raised and decided in these cases, but that it was assumed that denial of the landlord's title rendered the tenant liable to be evicted. We are not at present prepared to take the opposite view, and to refer the case to a Full Bench. We may observe that the doctrine of forfeiture is not entirely unknown to the law of landlord and tenant in Bengal, for Section 38 of Beng. Act VIII of 1869 distinctly provides for it in the event of the Collector being unable, from the non-attendance of persons holding tenures and under-tenures, to ascertain them at the measurement of any lands under that section.

4. In the present case, we think we are supported by authority, and dismiss the appeal with costs.