

(1871) 01 CAL CK 0002

Calcutta High Court

Case No: None

Maharaj Kumar Baboo
Ganeswar Sing

APPELLANT

Vs

Durga Dutt and Others

RESPONDENT

Date of Decision: Jan. 20, 1871**Final Decision:** Dismissed

Judgement

1. If it could be shown us in this case that there was a clear miscarriage of justice, that is to say, that there was no evidence whatever which would have warranted the conclusion at which the Court below has arrived, or that in the conduct of the trial, in the mode in which the evidence was adduced, in the course that was pursued as to holding the balance of justice between the parties in the course of the trial, there was a clear departure from the ordinary principles which regulate judicial proceedings, then their Lordships, notwithstanding the decision of the two Courts below, would have entertained and considered the appeal. But their Lordships are clearly of opinion that when the question is one simply of fact, and when above all things, that question of fact is a question of fact as to boundaries, where the local knowledge of local Judges and the observation of the local witnesses are all important, they would be departing from what has been the practice of this tribunal if they were to act in opposition to the well-considered judgment of the two Courts from whom the appeal comes. It is admitted, and could not be otherwise than admitted, that there is evidence which, if believed, would have justified those judgments. Their Lordships are of opinion that the Courts below were the best tribunal for deciding the question whether the evidence was credible or not, and they would be entirely unwilling to disturb their judgments. Their Lordships, therefore, will humbly advise Her Majesty that this appeal should be dismissed with costs. In the view which has been expressed of the case, it is unnecessary to consider or to express any opinion upon the point as to the statute of limitations.