

**(1868) 08 CAL CK 0027**

**Calcutta High Court**

**Case No:** Regular Appeal No. 364 of 1867

Raja Nilmani Sing

APPELLANT

Vs

Annadaprasad Mookerjee

RESPONDENT

---

**Date of Decision:** Aug. 8, 1868

---

### **Judgement**

Sir Barnes Peacock, Kt., C.J.

We have no doubt that this suit was maintainable. There was a covenant, on a given event, to make an abatement in the rent nominally fixed, and to refund a rateable proportion of the consideration-money. The event was, if it should turn out on enquiry and after preparation of the hastabud papers by the lessee, that the jumma stated by the Raja was not the real rent of the estate. The fact has so turned out, and the defendant has not made the abatement, but has recovered the rents for the years 1271, 1272, and 1273, without making any deduction in the amount. We are of opinion that the plaintiff is entitled to recover damages against the defendant for not making the abatement for those three years, which had not arrived at the time when the former suit was brought. The plaintiff could not, in that suit, have recovered damages in respect of those years for which he had not paid, and for which he had not at that time been called upon to pay any rent.

---

<sup>1</sup>Suit to include the whole claim.

Relinquishment of pact of claim

[Sec. 7:--Every suit shall include the whole of the claim arising out of the action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim a suit for the portion so relinquished or omitted, shall not afterwards be entertained.]