

Amarendra Lal Khan Vs. Ajodhya Khan

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Court : Kolkata

Decided On : Aug-24-1949

Reported in : AIR1951Cal302

Judge : G.N. Das, J.

Acts : [Provincial Small Cause Courts Act, 1887](#) - Schedule - Article 11; ;Transfer of Property Act

Appeal No. : Civil Rule No. 59 of 1949

Appellant : Amarendra Lal Khan

Respondent : Ajodhya Khan

Advocate for Def. : Manindra Krishna Ghose, Adv.

Advocate for Pet/Ap. : Jajneswar Majumdar, Adv.

Judgement :
ORDER

G.N. Das, J.

1. This is an application in revision on behalf of the plaintiff against a decision of Mr. Chakladar, learned Small Cause Court Judge, Midnapore. The suit was one for recovery of rent in respect of a plot of land which is admittedly governed not by

the Bengal Tenancy Act but by the Transfer of Property Act. The rent was claimed for the year 1350 to 1354 B. S. at the annual rate of Rs. 3-15-9. In the plaint the plaintiff stated that the rent was in respect of a fraction of C. S. Dag No. 536, Khatian No. 523. The defendant in his written statement did not dispute the amount of rent payable but disputed the extent of the tenancy. On that the learned Small Cause Court Judge forgetting the provisions of Article 11, Schedule 2, Provincial Small Cause Courts Act raised a point for determination as to the extent of the tenancy.

2. In my opinion, the question of the extent of the tenancy was entirely outside the scope of the suit and should have been left open for adjudication between the parties in future proceedings.

3. In my opinion, their Rule ought to be made absolute and I order accordingly. The decision and decree of the Small Cause Court Judge will be varied and the plaintiff will have a decree for the sum claimed, the question as to the extent of the tenancy being expressly left open between the parties.

4. The plaintiff is entitled to the costs of this Rule, hearing fee one gold mohur.