

**Mohabeer Pershad Singh Vs. Mohabeer Singh**

**Mohabeer Pershad Singh Vs. Mohabeer Singh**

**SooperKanoon Citation :** [sooperkanoon.com/869234](http://sooperkanoon.com/869234)

**Court :** Kolkata

**Decided On :** May-31-1881

**Reported in :** (1881)ILR7Cal591

**Judge :** Richard Garth, C.J. and ;McDonell, JJ.

**Appellant :** Mohabeer Pershad Singh

**Respondent :** Mohabeer Singh

**Judgement :**

Richard Garth, C.J.

1. I think that, in a case of this kind, where the plaintiff is dispossessed by a person who is found to have no title, and to be a trespasser, it is sufficient for the plaintiff to prove that he was in quiet possession at the time when he was so dispossessed. It seems to me, that this ought to be sufficient to establish a prima facie case as against the defendant. I am aware that there is some difference of opinion in the Court upon this point; and that some learned Judges consider, that the remedy by a possessory action, which is now provided by Section 9 of the Specific Relief Act, and which was formerly given by the Limitation Act, has the effect of doing away with the English rule, that possession is prima facie evidence of title. I do not see why that should be. The rule seems to me a very wise and convenient; one, and I should be sorry to see it abolished. I think, therefore, that the Court below is right, and that the appeal should be dismissed with costs.

**McDonell, J.**

2. I concur in dismissing the appeal. I think that, apart from the reasons given by the learned Chief Justice for dismissing the appeal, the Subordinate Judge has shown by his judgment that he agrees with the Munsif in holding that the plaintiff has acquired a statutory title.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**