

Macnaghten Vs. Gopal and anr.

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Court : Kolkata

Decided On : Apr-23-1881

Reported in : (1881)ILR7Cal751

Judge : Mitter and ;Maclean, JJ.

Appellant : Macnaghten

Respondent : Gopal and anr.

Judgement :

Mitter, J.

1. The first question that has been argued before us is, whether an undivided fractional shareholder of a mouza can enhance the rent of a holding of a joint tenant. But whether he can or not, we are clearly of opinion that such a suit as this is not maintainable in the absence of the other shareholder or shareholders. Conceding that a single shareholder can raise the rent of a joint tenant without the consent of his coparceners, it is clear that he can only do so in a suit to which all the sixteen annas proprietors must be made parties, otherwise the rent of the same holding might be raised to two or more different amounts at the instance of the several coparceners.

2. We are, therefore, of opinion that the decree of the lower Courts is not sustainable, and we dismiss the suit with costs in all the Courts.

3. This decision will govern Appeals Nos. 2665 to 2763, 2861 to 2870, and 2880 to 2885 of 1879, in which the plaintiff's suit is likewise dismissed with costs.

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