

The judgment of the Court (JACKSON and TOTTENHAM, JJ.) was delivered by

JACKSON, J. (*who, after disposing of points not relevant to this report, proceeded as follows*):—

1880  
 JOGESSUR  
 SINGH  
 v.  
 BYCUNT NATH  
 DUTTA.

The Appellate Court had also the survey map of the year 1844, to which objection had been taken, that objection being the old formal one, that, by an order of the Board of Revenue, the entire Government survey of the district of Hooghly had been annulled and a fresh survey made. That does not appear to us specifically to affect the presumption of law contained in the Evidence Act in favor of the particular survey map of this mouza, which must be presumed to be correct until the contrary is proved by the parties. It does not prove the contrary to show that the general survey had been set aside, because it is quite consistent with that order that the actual bearing of the land in suit should be correct. However that may be, it seems that a second survey having taken place in the year 1870, a new map was made, which coincided precisely with that of 1844. Under these circumstances, we think that the lower Appellate Court had before it, independently of the decisions objected to, sufficient grounds for affirming the judgment of the Court below.

The appeal is dismissed with costs.

*Appeal dismissed.*

*Before Mr. Justice White and Mr. Justice Maclean.*

RAMNIDHEE MANJEE (DEFENDANT) v. PARBUTTY DASSEE  
 (PLAINTIFF).\*

1880  
 April 12.

*Accretion—Rent Law—Notice of Enhancement—Beng. Act VIII of 1869,  
 s. 14—Reg. XI of 1825, s. 4, cl. 1.*

When the area of land held by a tenant under a permanent tenure has been increased by accretion, the tenant becomes subject to pay an increased rent on account of the land gained by accretion on the conditions laid down in

\* Appeal from Appellate Decrees, Nos. 771, 772, and 773 of 1879, against the decree of Baboo Bhupoti Roy, Subordinate Judge of East Burdwan, dated the 30th December 1878, modifying the decree of Baboo Koylash Chunder Mojoondar, Additional Munsif of Cutwa, dated the 21st February 1878.

1880

RAMNIDHEE  
MANJEE  
v.  
PARBUTTY  
DASSEE.

Reg. XI of 1825, s. 4, cl. 1. But before increased rent can be recovered, a notice must be served upon the tenant under s. 14 of Beng. Act VIII of 1869, informing him of the amount of rent to be imposed and the grounds upon which it is claimed.

Baboo *Gurudas Banerjee*, Baboo *Baidonath Dutt*, and Baboo *Chundergutty Mustofee* for the appellant.

Baboo *Chunder Madhub Ghose* and Baboo *Ambicachurn Banerjee* for the respondent.

THE facts of this case appear sufficiently from the following judgments :—

WHITE, J.—This suit was brought by a lady, Parbutty Dassee (the respondent before us), for khas possession of certain land, or for obtaining a kabuliat by assessment of rent at a rate on that land.

The land appears to be land which has become annexed by gradual accretion to a jote in the occupation of the defendant (the appellant before us). The precise nature of the defendant's tenure does not appear, but it seems to have been accepted in the case that he held a tenure under the plaintiff of a permanent character. The land accreted gradually, and I am of opinion that the accretion was annexed to the jote of the defendant, but liable to the payment of rent to the plaintiff on its being shown that he (the defendant) was, in the language of Reg. XI of 1825, by his engagement with the plaintiff or her predecessors, or by established usage, subject to an increase of rent for the land so annexed.

The first objection taken by the defendant is, that he was not duly served with notice, and an issue was raised by the Munsif upon that point. The Munsif was of opinion that service of notice had not been proved, but that having regard to the nature of the suit, no notice was necessary.

The lower Appellate Court on this point remarked :—“ I think that this case does not come under the Rent Procedure Act, Beng. Act VIII of 1869. The plaint is sufficient notice of demand for khas possession or for kabalats.”

Now, looking to the nature of the case and to the fact that this land had accreted gradually and had become annexed to the

land which was in the occupation of the defendant, I think that the right to recover increased rent in respect of the accretion is a right outside the Rent Procedure Act, and one that must be based upon the provisions of Reg. XI of 1825, s. 4. At the same time there is a clause in the Rent Act (Beng. Act VIII of 1869), which has been held by this Court to be of general application whenever a superior landholder seeks to make an under-tenant pay an increased amount of rent. It is s. 14, which prescribes that no under-tenant or ryot shall be liable to pay any higher rent for the land that he holds than the rent payable for the previous year, unless a written notice is served upon him by order of the Collector in whose district the land is situate, at a particular specified time, stating the rent to which he will be subject for the ensuing year and the ground on which an enhancement of rent is claimed. I need only refer to one decision of this Court,—namely, the case of *Bakranath Mandal v. Benodhram Sein* (1).

1880  
 RAMNIDHAR  
 MANJEE  
 v.  
 PARHUTTY  
 DASSEE.

The notice in the present case is described in the plaint as a notice requiring the defendant to quit the land or take out a settlement at a proper rate of rent, and is alleged to have been served by the plaintiff on the defendant: such service was not in accordance with s. 14 of the Rent Act, and it is undisputed that the notice did not contain the particulars required by that section. That being so, the plaintiff's suit must be dismissed with costs.

This judgment will govern appeals Nos. 772 and 773.

The appeals are allowed with costs, and the respondent will pay to the respective appellants their costs in the lower Appellate Court.

MACLEAN, J.—I am of opinion that the defendant is entitled to hold the land which has been added to his jote by accretion as part of his jote, subject, however, to increased rent on account of the accretion on the conditions laid down in Reg. XI of 1825, s. 4, cl. 1. But before increased rent can be imposed a notice must be served upon the defendant, informing him of the amount of rent to be imposed and the grounds upon which

(1) 1 B. L. R., F. B., 25.

1880  
 BANNIDHIRE  
 MANJEE  
 v.  
 PABUTTY  
 DASSEE.

it is claimed. In this case a demand for possession or a kabuliat at fair and equitable rates is made, but it only refers to the additional land, and does not mention the amount of rent. The suit is therefore badly framed, and I concur in dismissing the suit.

*Appeal allowed.*

## APPELLATE CRIMINAL.

*Before Mr. Justice Morris and Mr. Justice Prinsep.*

1880  
 May 7.

THE EMPRESS v. VAIMBILEE.\*  
 VAIMBILEE v. THE EMPRESS.

*Criminal Proceedings—Necessity for explaining Charge to Accused—Statement to Magistrate in foreign language—Criminal Procedure Code (Act X of 1872), ss. 122, 237, 346.*

When arraigning an accused, and before receiving his plea, the Court should be careful to insure the explanation of the charge in a manner sufficiently explicit to enable the accused to understand thoroughly the nature of the charge to which he is called upon to plead.

It is not necessary that a statement made to a Court by an accused in a foreign language should be taken down in the words of that language. The language in which the statement is conveyed to the Court by the interpreter is the language in which it should be recorded.

Baboo *Kallychurn Banerjee* for the petitioner.

THE facts of this case sufficiently appear in the judgment of the Court (MORRIS and PRINSEP, JJ.), which was delivered by

PRINSEP, J.—The prisoner Vaimbilee, a Madrassese, was charged, before the Additional Sessions Judge of the 24-Pargannas, with culpable homicide amounting to murder, by causing the deaths of Trevedee and Naga, and with having caused hurt to one Lazarus by a dangerous weapon, these three men being Madrassesees employed with him in a tannery at Tengra.

As the prisoner was ignorant of any language except Tamil,

\* Criminal Reference No. 22 of 1880, and Appeal No. 248 of 1880, against the order of F. J. G. Campbell, Esq., Officiating Additional Sessions Judge, 24-Pargannas, dated the 6th April 1880.