

Before Mr. Justice L. S. Jackson and Mr. Justice Phear.

1870
March, 9.

GOPAL CHANDRA BISWAS (DECREE-HOLDER). v RAMJAN SIRDAR
AND ANOTHER (JUDGMENT-DECTORS).*

Act XI of 1865, s. 19—*Immoveable Property—Moveable Property—Growing Crops.*

Growing crops are "immoveable property," and execution of a decree of a Small Cause Court cannot be had against them under section 19 of Act XI of 1865.

THE following case was referred, for the opinion of the High Court, by the Judge of the Small Cause Court at Krishnaghur :—

"The decree-holder has applied for attachment of a standing crop of 3 bigas 15 katas of linseed, and 4 bigas 9 katas of *arhar*, belonging to his debtor. The question is whether growing crops can be held to be personal or moveable property, under section 19, Act XI of 1865, so that attachment can issue against them from this Court." The Judge referred to *Raj Chandra Bose v. Dharma Chandra Bose* (1), *Muhammad Sileman v. Satu Harji* (2), and to section 2, Act XX of 1866.

The opinion of the Court was delivered by

JACKSON, J.—In answer to the question put by the Small Cause Court at Kishnaghur, I think it clear that growing crops come within the category of immoveable property, and not within that of moveable property, and that the Small Cause Court should follow the decisions which the Judge has himself cited. In further support of the view taken in this decision, I may refer to the language of Act I of 1862, otherwise called the General Clauses Act of 1868, which declares in the 5th clause of section 2 that "immoveable property," in all the Acts made by the Governor-General in Council, after this Act came into operation, "shall include land, benefits to arise out of land, and "thing attached to the earth, or permanently fastened to any "things attached to the earth;" and in the 6th clause, it is stated that "moveable property shall mean property of every description, except immoveable property." This view is not affected by the fact that, for the purposes of the Registration Act, the Legislature has dealt with growing crops as though they constituted moveable property.

* Reference, No. 4 of 1870, from the Judge of the Small Cause Court of Kishnaghur, dated the 4th February 1870.

(1) 2 B. L. R., A. C., 77.

(2) 5 Bom. H. C. Rep., 90.