

Before Mr. Justice Kemp and Mr. Justice Glover.

MAHARAJA DHIRAJ MAHTAB CHAND BAHADUR (PLAINTIFF) v.
SRI MATI DEBKUMARI DEBI (AND OTHERS (DEFENDANTS)).*

1871
May 2.

Interest.—Act VIII of 1869 (B. C.), s. 21—Rate of Interest.

Under Act VIII of 1869 (B. C.), section 21, it is discretionary with the Judge to give interest at 12 per cent.; he is not obliged to award interest to that extent.

Baboo *Ashúta'h Mookerjee* for the appellant.

Baboo *Upendra Chandra Bose* for the respondents.

The judgment of the Court was delivered by

KEMP, J.—The only point raised in this case, in special appeal, is with reference to the question of whether the Judge was right in awarding interest at the rate 4 per cent. In special appeal, it is contended that, under section 21, Act VIII of 1869 (B. C.), the plaintiff is entitled to recover interest of the rate of 12 per cent. per annum. We think that there is no force whatever in this contention. Section 21 lays down that arrears of rent, unless otherwise provided for by a written agreement shall be liable to interest at 12 per cent. per annum. There is no written agreement in this case, and therefore, if the Judge thought right to award any interest, he was entitled in his discretion to award it to the extent of 12 per cent. per annum. See *Nobolath Dey v. Rajah Boradakarth Roy Bahadur* (1), *Kashee Nath Roy Chowdhry v. Mynuddeen Chowdhry* (2), and *Beckwith v. Kishto Jeebun Buckshee* (3).

The special appeal is dismissed with costs.

Before Mr. Justice E. Jackson and Mr. Justice Mookerjee.

MUSSAMAT YUSAN KHATUN (PLAINTIFF) v. RAMNATH SEN (DEFENDANT)†

1871
March 28.

Act VIII of 1859, s. 230—Application—Regular Suit.

An application, under section 230 of Act VIII of 1859, should be registered and numbered in the register of suits as a plaint in a regular suit, and the Court is bound to determine, upon regular issues as in an ordinary suit, both the right and title, as well as the possession of the applicant.

Baboo *Debenra Narayan Bose* for the appellant.

Baboo *Malit Chandra Sen* for the respondent.

*Special Appeal, Nos. 2721 and 2719 of 1870, from a decree of the Judge of Hooghly, dated the 11th November 1870, affirming a decree of the Subordinate Judge of that district, dated the 30th August 1870.

†Special Appeal, No. 2220 of 1870, from a decree of the Subordinate Judge of Dacca, dated the 4th August 1870, affirming a decree of the Moonsiff of that district, dated the 13th December 1869.