

other matters complained of, they are little more than ordinary incidents of all hotly contested Mofussil cases, I therefore refuse the application to transfer the case to this Court. As to costs, the reason why I refuse them to the defendant is, that it was he who in the first instance started the idea of there being intricate questions of English and French law which would have to be decided in the suit. I may add that many reckless statements have been made on both sides without much regard to truth.

1872

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 COURJON  
 v.  
 COURJON.

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*Before Mr. Justice E. Jackson and Mr. Justice Mitter.*

MAHARAJA DHIRAJ MAHATAB CHAND BAHADUR (PLAINTIFF) v. MA  
 KUND BALLABH BOSE AND OTHERS (DEFENDANT).\*

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 1870  
 Aug. 18.
 

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*Suit for Rent of Land with Buildings—Jurisdiction of Revenue Court.*

The Revenue Courts have no jurisdiction to entertain a suit for rent of land with buildings upon it, when the rent includes the rent of the buildings, as well as of the land.

Baboo *Chandra Madhad Ghose* for the appellant.

Baboo *Mahendra Lal Seal* for the respondents.

THE judgment of the Court was delivered by

JACKSON, J.—This was a suit for arrears of rent. The question before both the lower Courts seems to have been whether the jurisdiction to try the suit was in the Civil Court, or was in the Revenue Court. Both the lower Courts have come to the conclusion that the jurisdiction was with the Revenue Court, and have dismissed the suit of the plaintiff from hearing in the Civil Court. On special appeal to us, it is argued that this decision is wrong, and that the jurisdiction at the time this plaint was preferred was in the Civil Court.

It would not have been necessary to try this point now, as, whether the jurisdiction was in the one Court or the other, the jurisdiction is now in the Civil Court; but as the question has been pressed upon us in connexion with the matter of costs, it becomes necessary to decide whether, at the time this plaint was put in, it was entertainable in the Civil Court or not.

The mehals leased appear to consist of two large bazars in the town of Bardwan. One of them is the Chandee bazar, close to the Maharajah's palace. The kabuliat is put in. From this kabuliat, it is quite clear that not only is the land leased, but also the buildings in the bazar are leased.

\* Special Appeal, No. 151 of 1870, from a decree of the Judge of East Bardwan, dated the 18th May 1869, affirming a decree of the Subordinate Judge of that district, dated the 11th December 1868.

1870

MAHARAJA  
DHIRAJ MAHARAJA  
HATABCHAND  
BAHADUR  
v.  
MAKUND  
BALLABH  
BOSE.

The rent which is assessed does not issue only out of the land, but also out of the buildings; and, in fact, in the case of a bazar like this, it must issue principally out of the buildings.

One case which was quoted by the respondents' vakeel before us, in order to fortify his argument, is directly against him, namely, the decision in the case of *Tarimey Prasad Ghose v. The Bengal Indigo Co. (1)*. That was a case in which the land had been leased for certain indigo manufacturing purposes. Factories had subsequently been built upon the land, and a suit regarding rent had been brought, and it was attempted to be contended that, as factories were situated upon the land, the suit could not be brought in the Revenue Courts; but was held that, as the lease was not for the factory, but only for the land, the suit would lie in the Revenue Courts. Had, however, the lease been for the factory, as well as the land, the suit could not have been preferred in the Revenue Court. The decision is directly against the argument of the respondents' pleader. I quite concur in that decision, and I understand that that decision has been followed generally in this Court for some years past.

The rent which is demanded in this case not being solely for the land, but also for the buildings, it appears to me that the suit does not lie in the Revenue Court, and that the lower Courts are wrong in deciding to that effect. The decision of the lower Courts must be set aside, and the case must be remanded to the first Court for trial. The respondent must pay the costs of all the Courts.

1870  
Dec. 7.

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

HARI MOHAN SIRKAR AND OTHERS (DEFENDANTS) v. R. SCOTT  
MONCRIEFF (PLAINTIFF).\*

*Suit for Rent of Lands on which are Arhats, Ghats and Bazars—jurisdiction of Revenue Court—Act X of 1850.*

A suit for rent of lands where the rent comes from arhats, ghats, and bazars situated upon it, as well as from the land, will not lie in the Revenue Court.

Mr. R. E. Twidale for the appellants.

Mr. R. T. Allan and Baboo Bharwani Charan Dutt for the respondent.

The judgment of the Court was delivered by

JACKSON, J.—This is a suit for two months' rent of forty-six bigas of land, and of certain arhats, ghats, hats, and bazars thereon, in Mauza

(1) 2 W. R., Act X R., 9.

\* Special appeal No. 1341 of 1870; from a decree of the Additional Judge of Nuddea, dated the 9th May 1870, reversing a decree of the Deputy Collector of the district, dated the 5th April 1869.