

Before Mr. Justice Jackson and Mr. Justice Mitter.

GUNGA GOBIND SEN (DEFENDANT) v. GOBIND CHUNDER DOSS  
AND ANOTHER (PLAINTIFFS).\*

Beng. Act VIII of 1869, s. 29—Limitation—Suit for Arrears of Rent—*Pro Formâ* Defendants.

1873  
March 18.

This was a suit instituted, under the provisions of Beng. Act VIII of 1869, on an *ijara kabuliat* dated 21st Jaishtha 1265 (2nd April 1858), executed by the principal defendant, Gunga Gobind Sen, to recover the sum of Rs. 489-3-10, being the sum due to the plaintiffs in respect of their fourth share of the Zemindari Ramkanic, of which they were co-shares with the defendants, for the year 1271 to 1276 (1864 to 1869). It appeared that the co-sharers jointly borrowed Rs. 5,000 from the appellant on the *ijara* or usufructuary mortgage of their shares for fourteen years at a yearly rental of Rs. 2,292, on condition that the appellant should keep to himself annually Rs. 725 on account of interest of the loan, pay the Government revenue Rs. 1,343-9-7, and give the mortgagors, Rs. 223-6-5 for their subsistence. It was in respect of the last claim that the present suit was brought. The plaintiffs had previously brought their suit in the Revenue Court making their co-sharers who did not join him in the suit *pro formâ* defendants. They instituted the present suit in the Civil Court on 27th February 1871. In the Courts below the defence was raised that a portion of the plaintiffs' claim was barred by the law of limitation, and that they were only entitled to recover for the three years previous to the institution of the suit. The Munsif referred to the case of *Prosonno Coommar Paul Chowdhry v. Mudden Mohun Paul Chowdhry* (1), and gave a decree for the whole amount claimed. On appeal

(1) Before Mr. Justice L. S. Jackson and  
Mr. Justice Glover.

The 25th April 1870.

PROSONNO COOMAR PAUL CHOW-  
DHRY AND ANOTHER (DEFENDANTS) v.  
MUDDEN MOHUN PAUL CHOW-  
DHRY AND OTHERS (PLAINTIFFS).†

Baboo Annoda Pershad Banerjee for the appellants.

Baboos Onoocool Chunder Mookerjee and  
Mohiny Mohun Roy for the respondents.

The judgment of the Court was deli-  
vered by

JACKSON, J.—It appears to me that it is not necessary to trouble the pleaders who appear for the respondents, because the appellants have made out no good or sufficient cause for impugning the judgment of the Court below.

There were three questions of law raised in this appeal; the first being that the Civil Court had no jurisdiction to entertain this suit, the real object of that suit being to recover from the defendants an arrear of rent, such a suit being, it was contended, cogni-

\*Special Appeals, Nos. 423 and 475 of 1872, from the decrees of Subordinate Judge of Tipperah, dated the 7th December 1871, affirming the decrees of the Munsif of that district, dated the 10th April 1871.

† Regular Appeal, No. 256 of 1870, from a decision of the second Subordinate Judge of the 24-Pergunnas, dated the 23rd September 1869.