

# CALCUTTA HIGH COURT

Debendra Nath Roy Choudhury

Vs

Official Receiver

(Costello, Ag. C.J.)

18.05.1937

## JUDGMENT

**(Costello, Ag. C.J.)**

1. This is a plaintiff's appeal in a suit for recovery of arrears of rent. The Courts below have agreed in dismissing the suit on the ground that no notice under Section 80, Civil P. C., was served on the defendant receiver. In view of the principle laid down in *Revati Mohan Das v. Jatindra Mohan Ghose*<sup>1</sup> we are of opinion that no notice under Section 80, Civil P.C., is necessary in this case. The omission of the receiver to pay rent is not "an act purporting to have been done by him in his official capacity.

2. The result therefore is that this appeal is allowed. The judgment and decrees of the Courts below are set aside and the case is sent back to the trial Judge for re-hearing on the merits according to law. Costs will abide the result.

Cases Referred.

<sup>1</sup>(1931) 21 AIR PC 96