

**Udaising Vs. Jagannath**

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**SooperKanoon Citation :** [sooperkanoon.com/447592](http://sooperkanoon.com/447592)

**Court :** Allahabad

**Decided On :** Dec-31-1969

**Reported in :** (1875)ILR1All135

**Judge :** Robert Stuart, C.J., ;Pearson, ;Turner, ;Spankie and ;Oldfield, JJ.

**Appellant :** Udaising

**Respondent :** Jagannath

**Judgement :**

Robert Stuart, C.J., Pearson, Turner and Oldfield, JJ.

1. It appears that Mr. Currie as Collector allowed a reduction of the yearly revenue, subject, it may be presumed, to the sanction of Government. In 1278 fasli sanction was refused, and a demand was made on the respondent, the lambardar, who however did not pay the arrears due until 1281 fasli. Meanwhile he retained in his hands the profits of 1278 fasli, 1279 fasli, and 1280 fasli, and not improbably for the purpose of meeting the Government demand if pressed. In the suit out of which this appeal arises, the appellants, the patnidars, sue the lambardar for their profits of the years 1278, 1279, and 1280; and he pleads that, out of the sums collected in these years and remaining in his hands, he has paid the arrears of revenue above-mentioned; and the question which principally calls for decision in this appeal is whether he is or is not entitled to be allowed this payment. We are of opinion that he is. The lambardar is, in this village, the agent of the co-sharers to

make collections, and after payment of the revenue to divide the profits. An arrear of revenue was due to Government, and to discharge this arrear he was entitled to have recourse to the collections for the years 1278 fasli, 1279 fasli, and 1280 fasli, remaining in his hands undivided. There is nothing in the revenue law which restricts a lambardar or other co-sharer, who may make collections, to discharge arrears of Government revenue out of the collections of the particular year in which the arrear may accrue. It would be at least inconvenient to hold that, having in his hands profits to meet the Government demand, the respondent, instead of applying these profits to the discharge of the demand, should be driven to have resort to a suit against each co-sharer.

**Spankie, J.**

2. I adhere to the opinion expressed in my judgment of the 8th June 1875. Nothing that I have heard leads me to think that my view is incorrect.

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