

Chitar Singh Vs. Th. Roshan Singh

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Court : Allahabad

Decided On : Mar-30-1943

Reported in : AIR1943All301

Appellant : Chitar Singh

Respondent : Th. Roshan Singh

Judgement :

ORDER

Collister, J.

1. On 20th March 1926, the opposite party's transferor sold certain property to the applicants for Rs. 28,000. A balance of Rs. 7360 remained unpaid and for this the applicants on the same date executed a mortgage in favour of the vendor in respect to a portion of the property sold. Ultimately the opposite party sued on his mortgage, and his suit was decreed. Subsequently the applicants applied under Section 8, Debt Redemption Act, but their application has been dismissed. They have now come in revision to this Court; but I am informed that one of them has since compromised the matter with the opposite party.

2. The point for decision is whether the sum of Rs. 7320 remaining due under the sale deed was or was not a loan within the meaning of Section 2 (9), Debt Redemption Act. I think there can be no doubt that it was not. It was the unpaid balance of the sale consideration and cannot be regarded as a loan, whether

technically or substantially. Learned Counsel for the applicant who has not compromised seeks to distinguish the case in Mohammad Shibli Khan v. Ish Datt Dikshit : AIR1939 All398 , but I do not think there is any difference in principle. I dismiss the application with costs.

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