

Deojit Vs. Pitambar and ors.

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1875)ILR1All275

Judge : Robert Stuart, C.J. and Turner, J.

Appellant : Deojit

Respondent : Pitambar and ors.

Judgement :

1. This case differs widely from the one to which reference has been made *Martin v. Pursram* H.C.R. N.W.P. 1867 p. 124. If the debtors had described themselves as the owners of certain property and then gone on to pledge their rights and interests, it would have been reasonable to refer the indefinite expression to the description. In this case the debtors simply describe themselves as residents in a place and pledge 'kul haq haquk.' This case falls within the principle of the decision see e.g. *Ram Baksh v. Sookh Deo* H.C.R. N.W.P. 1869 p. 65 that a general hypothecation is too indefinite to be acted upon. Under the Contract Act, Section 29, an agreement is void if its meaning is not certain or capable of being made certain, and under Section 93 of the Evidence Act, where the language of a deed is, on its face, ambiguous or defective, no evidence can be given to make it certain. The Courts below have, however, found that the deed was not proved, and by this finding we are bound. Our observations on the other issue are intended to impress upon money-lenders that distinctness in the description of

property mortgaged is essential. The appeal fails and is dismissed with costs.

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