

Sarvi Begam Vs. Taj Begam

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Court : Allahabad

Decided On : Jan-29-1914

Reported in : AIR1914All511(1); (1914)ILR36All181

Judge : Ryves and ;Piggott, JJ.

Appellant : Sarvi Begam

Respondent : Taj Begam

Judgement :

Ryves and Piggott, JJ.

1. The appellant Musammat Sarvi Begam purchased at auction the right of Musammat Taj Begam, which amounted to a specified undivided share (136 out of 192 sihams in a certain house. The rest of the house belonged to Musammat Sahibzadi Begam, who is not a party to this proceeding. The judgment-debtor, Musammat Taj Begam, seems to have been endeavouring to obstruct Musammat Sarvi Begam and to prevent he from obtaining effective possession of what she purchased. The court below has ordered possession to he given under order XXI, Rule 96 of the Code of Civil Procedure. But this rule has clearly no application to the facts of the present case. Musammat Sarvi Begam entitled to effective possession of what she purchased, namely, the undivided share belonging to Musammat Taj Begam aforesaid The provisions of order XXI, Rule 95, may be read with those of Order XXI, Rule 35, Clause (2), whenever it is a question of

giving effective possession of an undivided share either to a decree-holder or to an auction-purchaser under a decree. We amend the order of the court below by directing that actual possession be given to the appellant, Musammat Sarvi Begum, in accordance with the provisions of order XXI, rules 35 and 95. The appellant will get her costs of this appeal.

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