

Ali Husaln Vs. Amin-ullah

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Court : Allahabad

Decided On : Jun-10-1912

Reported in : (1912)ILR34All596

Judge : Karamat Husain and ;Tudball, JJ.;

Appellant : Ali Husain

Respondent : Amin-ullah

Judgement :

Karamat Husain and Tudball, JJ.

1. The pre-emptor succeeded in his suit for pre-emption. The first court ordered him to deposit Rs. 6,800. He carried out the order of the court. Subsequently, in execution of his own decree for costs, he attached and got a sum of Rs. 314-8-0, out of the sum deposited by him. There was an appeal in the pre-emption suit to this Court, and this Court modified the decree of the first court by ordering the pre-emptor to pay a sum of Rs. 10,000, instead of Rs. 6,800. He deposited in compliance with the order of this Court an extra sum of Rs. 3,200. This deposit was made in time. The judgment-debtor took objection to this deposit on the ground that it was not a compliance with the order of the High Court, inasmuch as the decree-holder had taken out the sum of Rs. 314-8-0 out of the sum previously deposited by him. The court below disallowed the objection. Hence this appeal. There is a series of decisions of this Court; see *Ishri v. Gopal Saran* (1888) I.L.R.

10 All. 400; Balmukand v. Pancham (1906) I.L.R. 28 All. 676; Parmanand Raot v. Gobardhan Sahai (1906) I.L.R. 28 All. 676 and Bechai Singh v. Shami P. 27 Nath (1910) 8 A.L.J. Notes . In all these cases it has been ruled that such a deposit as was made by the pre-emptor in this case, was a complete compliance with the order of the court. Mr. Justice Tyrrell in Balmukand v. Pancham no doubt, took a different view. But we are bound to follow the other rulings of this Court with which we ourselves agree. The appeal fails and is dismissed with costs.

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