

Khubi and anr. Vs. Ramjas and ors.

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Court : Allahabad

Decided On : Jan-28-1911

Reported in : 9Ind.Cas.856

Judge : Griffin, J.

Appellant : Khubi and anr.

Respondent : Ramjas and ors.

Judgement :

Griffin, J.

1. This appeal arises out of a suit for pre-emption. The plaintiff is a co-sharer in the village but not in the patti in which the property sold is situated. The vendee is a stranger. The plaintiff bases his claim upon a provision of the wajib-ul-arz which gives a right of pre-emption first to brothers or descendants from the same stock; and, secondly, to hissedaran patti deh.

2. From a rubkar of the Court of first instance on the record it appears that the original wajib-ul-arz was inspected by the Munsif who found that the words ran as set out above hissedaran patti deh. The Munsif was of opinion that the word deh was added after the writing of the words hissedaran patti. The plaintiffs' suit was dismissed by both the Courts below.

3. On behalf of the appellant it is contended that the words hissedaran patti deh should be interpreted as meaning co-sharers in the village and the patti. That would mean that we would have to read the original as hissedaran patti, va deh. It is quite possible that the co-sharers of the village did mean that the co-sharers of the village would have a right of pre-emption failing nearer co-sharers against strangers. At the same time, it is impossible to hold that the words actually used in the wajib-ul-arz give the co-sharers in the village a right of pre-emption even against strangers, and I think it would be going too far for a Court to take upon itself to correct the record of an entry in the wajib-ul-arz.

4. I must agree with the Courts below that under the wajib-ul-arz the plaintiffs have no right of pre-emption and their suit has been properly dismissed. The appeal is dismissed with costs.

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