

Chitan Singh Vs. Baldeo Singh and ors.

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Court : Allahabad

Decided On : May-02-1918

Reported in : AIR1918All374(1); 46Ind.Cas.75

Judge : Henry Richards, C.J. and ;Tudball, J.

Appellant : Chitan Singh

Respondent : Baldeo Singh and ors.

Judgement :

1. In this case the plaintiff brought a suit for pre-emption. The property was sold on the 5th of March 1914. The consideration stated was a sum of Rs. 4,500, which both the Courts below have found to be the true consideration. The present suit was not instituted until the 28th of January 1915, when the plaintiff alleged, amongst other things, that the sale price was only Rs. 2,731. The Court of first instance granted a decree upon payment of the price within one month. Just as that time was about to expire an application was made to the Court to extend the time. The Court intimated that it had no power to change the terms of the decree. Thereupon the plaintiff filed an appeal abandoning his allegation about the excess of the purchase-money save to the extent of Rs. 333 After the plaintiff appealed the vendee also appealed. Both appeals came up and were dismissed. The Court below refused to alter the decree of the Court of first instance with regard to the time within which the money should be brought in. In order to justify the Court in altering the decree of the Court of first instance, the lower Appellate Court would

have to find that one month was an unreasonable time for the Court to fix in its decree for the payment of the money. Considering that the plaintiff had over eleven months to prepare himself for payment of the purchase-money, we can hardly say that a month was an unreasonable time. In a pre-emption suit the plaintiff is presumed to be ready and willing to pay the purchase-money whenever he can get possession of the property. If for any special reason a plaintiff in preemption wants to have a more extended time, he should instruct his Pleader to ask the Court to make a special term in the decree and to give the Court good reasons for giving an extended time. Nothing of this appears to have been done in the present case. We think there is no force in the appeal and we accordingly dismiss it with costs.

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