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Mohammad Shafi Vs. Babu Bindeshari Singh

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SooperKanoon Citation : sooperkanoon.com/471091

Court : Allahabad

Decided On : Feb-10-1922

Reported in : 70Ind.Cas.483

Judge : Walsh, J.

Appellant : Mohammad Shafi

Respondent : Babu Bindeshari Singh

Judgement :

Walsh, J.

1. I agree with the judgment of the Court below. I think this is an action for trespass and for possession of the land. The plaintiff was prepared to allow the defendants to remove the trees. That is not the same thing as an action for removal of the trees. The learned Judge below has decreed possession. So far as the suit for possession is concerned, the period is twelve years. The defendants set up title and claimed adverse possession. I think the planting of trees one another person's land is an active trespass and, certainly, the owner is entitled to treat it as such if he wishes. The period is twelve years. I do not think Musharf Ali v. Iftkhar Hussain 10 A. 634 : A.W.N. (1888) 257 : 6 Ind. Dec. (N.S.) 427 applies. I have great doubts whether I should agree, with it, if it did. The appeal is dismissed with costs.

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