

Ali Husaln Vs. Amln Ullah

Ali Husaln Vs. Amln Ullah

SooperKanoon Citation : sooperkanoon.com/480794

Court : Allahabad

Decided On : Jun-10-1912

Reported in : 15Ind.Cas.337

Judge : Karamat Husain and ;Tudball, JJ.

Appellant : Ali Husain

Respondent : Amln Ullah

Judgement :

1. The pre-emptor succeeded in his suit for pre-emption. The Brat 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 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 has taken out the sum of Rs. 314-8 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 6 A. 351; Balmukand v. Pancham 10 A. 400; Permanand Raot v. Gobardhan Sahai 28 A. 676 : 3 A.L.J. 804 : A.W.N. (1906) 198 and Bechai Singh v. Shaminath 8 A.L.J. 27

note : 10 Ind. Cas. 454. 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 Parmanand Raot v. Gobardhan Sahai 28 A. 676 : 3 A.L.J. 804 : A.W.N. (1906) 198, 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 including fees on the higher scale.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com