

Bansi Vs. Ram Baran and ors.

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SooperKanoon Citation : sooperkanoon.com/483664

Court : Allahabad

Decided On : Jul-26-1922

Reported in : AIR1923All150; 75Ind.Cas.751

Judge : Rafique and ;Piggott, JJ.

Appellant : Bansi

Respondent : Ram Baran and ors.

Judgement :

1. The question in issue is whether the plaintiff claiming pre-emption has proved the existence of a custom of pre-emption in the village in suit. The entries in the wajtb-ul-arzes drawn up at the two Settlements of 1833 ana 1860 are prima facie, records of an existing custom. There were at, least three co-sharers in the former year and a number of co-sharers in the latter year. The main contention before us is that this evidence is sufficiently rebutted by a note recorded at the time of the Settlement of 1860, to the effect that this village had been waste or desolate up to the year 1829. We do not think this is sufficient to rebut the presumption raised in favour of the plaintiff. We dismiss this appeal with costs.