

Man Singh and ors. Vs. Ram Lal Alias Bhuria and ors.

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Court : Allahabad

Decided On : Oct-18-1929

Reported in : 121Ind.Cas.819

Judge : Shah Muhammad Sulaiman, Acting C.J. and ;Kendall, JJ.

Appellant : Man Singh and ors.

Respondent : Ram Lal Alias Bhuria and ors.

Judgement :

1. Admittedly a mortgage-decree was obtained by some of the plaintiffs on the allegation that they were members of a joint Hindu family, and the other members were impleaded as pro forma defendants. In execution of that mortgage-decree the mortgaged property was purchased by the plaintiffs in lieu of the decretal amount. Within twelve years of that date the heirs of the pro forma defendants, who were then described as members of the joint Hindu family, instituted the present suit to recover their share of the property. The suit was dismissed by the District Judge but has been decreed by a learned Judge of this Court who has come to the conclusion that the defendants cannot be allowed to go back upon their former admission. It seems to us that when the property was purchased in lieu of the joint decretal amount it was for the benefit of the then plaintiffs and the pro forma defendants. The property must be deemed to have been purchased on behalf of all the joint decree-holders. The present defendants must be taken to hold the property on behalf of all the beneficiaries. This view is supported by the

ruling of their Lordships of the Privy Council in Ganga Sahai v. Kesri 30 Ind. Cas. 265 : 37 A. 545 : 19 C.W.N. 1175 : 18 M.L.T. 203 : 29 M.L.J. 329 : 2 L.W. 837 : 13 A.L.J. 999 : 17 Bom. L.R. 998 : 22 C.L.J. 508; (1915) M.W.N. 713;42 I.A. 177 (P.C.) and subsequent cases. We therefore, think that the decree passed by the learned Judge of this Court was right. The appeal is dismissed with costs.

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