

(1898) 05 AHC CK 0005
In the Allahabad High Court

Bansidhar

APPELLANT

Vs

Dip Singh and Others

RESPONDENT

Date of Decision : 19-05-1898

Acts Referred:

Citation : (1898) ILR (All) 438

Hon'ble Judges : Burkitt, J

Bench : Single Bench

Judgement

Burkitt, J.—In this case it appears that one Puran Singh, the lambardar of a village which was under partition, and to the partition of which his objections had been disallowed on the 8th of August 1894, granted on the 24th of December of the same year, a lease, for a period of no less than ten years, of more than 400 bighas of land producing valuable munj grass, at the utterly inadequate rent of Rs. 12 per annum. The Subordinate Judge says, and perhaps with truth, that no fraud was proved; but in my opinion we have only to look at the lease itself to see that it was given by a disappointed litigant, whose power as lambardar was soon about to cease, with the intention of damnifying his successful opponent in the partition proceedings. For that reason alone I would direct the lease to be set aside; but, further, there is distinct authority in this case, in the case of Jagan Nath v. Hardyal Weekly Notes 1897 p. 207, in which it was distinctly ruled that a lambardar has no general power to grant any lease of co-parcenary land beyond such as the circumstances of the particular year or particular season may require. That no doubt was a case of a perpetual lease, but the reasons for the decision apply with equal strength to the ten years' lease in the present case. I fully concur in the rule of law laid down in the case just cited, and, following the principle contained in it, I set aside the decrees of the two lower Courts, and, allowing this appeal, I give a decree in favour of the plaintiff appellant. I cancel the lease dated the 24th of December 1894, so far as it concerns an area of 144 bighas 7 biswas and 13 biswansis pukhta out of mahal Bangar of Chitaura Mohiuddinpur, and I direct that possession of that area be given to the plaintiff appellant by the dispossession of the defendant lessee. The plaintiff appellant will

have his costs in this Court.