
(1925) 01 AHC CK 0030
In the Allahabad High Court

Fazal Husain

APPELLANT

Vs

Fazaluddin

RESPONDENT

Date of Decision : 14-01-1925

Acts Referred:

Citation : AIR 1924 All 291

Hon'ble Judges : Mukerji, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Mukerji, J.—Nobody has appeared to oppose this application in revision. The suit out of which this application has arisen was a pre-emption suit and the decree was made by a Munsif on the 7th of May 1924 in favour of the plaintiff. The order was that the purchase-money, a sum of Rs. 50 was to be paid within two months of the decision of the Court becoming final. The purchase-money was not paid till the 26th of July 1924. The plaintiff apprehended that he had come after the expiry of the period fixed and he made an application for extension of the time of payment. The learned Munsif held that the decree became final at the earliest on the 7th of June 1924, when one month's time allowed for appeal expired and that, therefore, (reckoning two months from the 7th of June 1924) the deposit was in time. On behalf of the vendee the present petition has been made and it is urged that as there was no appeal whatsoever, the decree became final at the date it was passed and that the two months' time should have been reckoned from the 7th of May 1924, and not from the 6th of June 1924. No authority has been produced in support of the applicant's contention. On a simple construction of the language of the decree the plaintiff could wait to see whether an appeal was filed or not and after seeing that no appeal was filed he could set about to procure the money for payment. In the case of Gopal Das v. Mammon Kunwar (1908) 5 A.L.J. 136 it was held that where there was an appellate decree but there was no second appeal, the decree became final on the expiry of time for filing the second appeal. The principle applies in this case and the payment was

within time. The petition is rejected but without costs as there is nobody to contest the petition.