

(1908) 02 AHC CK 0008
In the Allahabad High Court

Khubi Ram and Another

APPELLANT

Vs

Tikam Singh and Another

RESPONDENT

Date of Decision : 07-02-1908

Acts Referred:

Citation : (1908) ILR (All) 163

Hon'ble Judges : John Stanley, C.J.; William Burkitt, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

John Stanley, C.J. and William Burkitt, J.—The suit out of which this appeal has arisen was brought by the plaintiffs, who are two of the co-sharers of a village, to have a lease executed by the lambardar of the village in favour of the defendants set aside. The defendants are also co sharers of this village. The lambardar and the other co-sharers were all made parties to the suit. The lease was for a term of seven years, and it is alleged and has been proved that it was made at an inadequate rent.

2. The Court below set it aside on, amongst other grounds, the ground that a lease by a lambardar for a term of seven years under ordinary circumstances could not be supported. This is a rule which has been acted upon by this Court for a number of years, and was followed by a Bench of this Court in the case of Chattray v. Nawala ILR (1906) All. 20. In that case a Bench, of which one of us was a member, held that it was reasonable that a manager should have power to make temporary lettings, but the duties imposed upon him did not seem to admit of his executing in favour of a lessee without the consent of the coparcenary body a lease for along term of years, and then we pointed out that there was nothing to show that the exigencies of the season or time when the impeached lease was granted required that the grant should be made for so long a term as seven years. This decision followed previous rulings and is in no way inconsistent with the case of Mukta Prasad v. Kamta Singh 1906 WN 277. In that case it was held that a lambardar was competent to execute a lease of land for

ten years without reference to other co-sharers where the land could not otherwise be let and where it; was for the benefit of the co-sharers that the land should be so let. In his judgment in that case Sir Arthur Strachey, C.J., observed as follows: "It appears that this land is of inferior quality and it continued no pacca well for the purposes of irrigation. Upon the facts found by the Court below it appears that if the lambardar had not executed this lease for ten years, the land would not have been cultivated at all and would have yielded no profit to the coparceners." It will therefore be observed that the circumstances of that case were exceptional. The rule appears to be, as we have stated, that a lambardar cannot of himself execute a lease of land beyond such term as the circumstances of the particular year or season may require. We therefore dismissed the appeal with costs.