

(1915) 05 AHC CK 0037
In the Allahabad High Court

Sheo Kumar Misra and Others

APPELLANT

Vs

Brij Kumar Lal and Others and Mohar Lal and Another

RESPONDENT

Date of Decision : 07-05-1915

Acts Referred:

Citation : (1915) ILR (All) 444

Hon'ble Judges : Henry Richard, C.J.;Tudball, J;Pramada Charan Banerji, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Henry Richard, C.J., Pramada Charan Banerji and Tudball, JJ.—The facts connected With this appeal are extremely simple. Prior to the passing of the Agra Tenancy Act an occupancy tenant purported to mortgage his occupancy tenancy. The term of the mortgage was fifty-nine years. In the year 1911, the occupancy tenant entered into an arrangement with the zamindar to relinquish his rights. The court below has found that the mortgage was for consideration and genuine. It has found, that the object of the relinquishment was to defeat the mortgagee's rights. The first court dismissed the suit on the ground that the Civil Court had no jurisdiction. Mr. Dalai, District Judge, on appeal reversed the court of first instance and granted the plaintiff a declaration that the relinquishment was ineffectual against him and also granted an injunction restraining the zamiudar from interfering with the plaintiff's possession. In our opinion the decision of the court below was correct. It is fully covered by the decision of this Court in the case of Jaigopal Narain Singh v. Uman Dat (1911) 8 A.L.J.R. 695 with which we agree. We dismiss the appeal with costs. The objection is disallowed with costs.