

(1926) 05 AHC CK 0007
In the Allahabad High Court

Sheobaran Singh

APPELLANT

Vs

Nirotam Singh and Others

RESPONDENT

Date of Decision : 14-05-1926

Acts Referred:

Citation : (1926) 05 AHC CK 0007

Final Decision : Dismissed

Judgement

1. This second appeal arises out of a suit for partition. The land in suit is in khata No. 2 of Mahal Baqimanda in a certain village and both the Courts below dismissed the suit on the finding that the suit was not cognizable by the Civil Court. It is urged that the khata in suit has not been assessed to revenue and, I therefore, the Civil Court can partition it. In our opinion this argument has no force. Although the land in this khata, which consists of the abadi of the village, is not assessed to revenue, nevertheless it forms a part of a mahal and, therefore, the jurisdiction of the Civil Court is barred by Section 233(k) of the Land Revenue Act, 1901.

2. The case is governed by the rulings in Mahmud Jahan Began v. Govind Ram 59 Ind. Cas. 4 : 43 A. 45 : 18 A.L.J. 783 and Shiam Sunder Vs. Surtha Singh and Others Following these rulings we dismiss the appeal with costs including in this Court fees on the higher scale.