

(1877) 07 AHC CK 0002

Allahabad High Court

Case No: None

Abdal

APPELLANT

Vs

Hira Chand

RESPONDENT

Date of Decision: July 20, 1877

Citation: (1875) ILR (All) 455

Hon'ble Judges: Turner, J; Spankie, J

Bench: Division Bench

Final Decision: Allowed

Judgement

Turner, J.

The suit cannot be maintained as brought. The plaintiff, respondent, the purchaser of a mortgagor's share, paid off the mortgage to save the property from foreclosure. He thereby became entitled to call upon each of the other mortgagors to contribute, that is to say, he could claim from each a contribution proportionate to his interest in the property. He has now claimed in the lump sum the whole amount paid by him from the other co-sharers collectively, not even excluding his own quota.

2. The appeal is decreed, and as the ground is common to all the defendants, and it would be inequitable to allow the decree to stand against any of them, we reverse the decrees of the Courts below as against the defendants who did not appeal as well as against the defendant who has appealed. Hira Chand will recover his costs in all Courts. The other defendants must pay their own costs.