

(1878) 01 AHC CK 0002

Allahabad High Court

Case No: None

Chadami Lal

APPELLANT

Vs

Muhammad Bakhsh
and Another

RESPONDENT

Date of Decision: Jan. 21, 1878

Citation: (1875) ILR (All) 563

Hon'ble Judges: Pearson, J; Oldfield, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Oldfield, J.

This suit has been brought to recover certain shares in mauza Saran Top and Mahal Bagh, pargana Kanauj, by right of pre-emption based on the village administration-papers of the current settlement. It was urged in defence by the purchaser that the village administration-papers are not binding on his vendor, who was no party to them, and that, as a matter of fact, the plaintiff refused the offer of the estates when made to him. The lower Court has dismissed the claim finding in favour of the answering defendant. The objections now taken in appeal by the plaintiff appear to us to fail. The wajib-ul-arz of Mahal Bagh was not signed by the vendor or any one he represents, and though in that of the zamindari mahal there is an endorsement to the effect that Gajadliar Lai attested it, there is nothing to show that, if he did so, he had any authority to do so. He was the lessee of the owner, Musammat Banno, but this position did not give him authority to act for her at the settlement. In his evidence he states that he cannot remember about the attestation of the wajib-ul-arz, and he never had any power of attorney to act as her agent.

2. We concur with the lower Court in considering that it is not satisfactorily proved that the vendor or any one he represents was a party to the execution of the village administration-papers, or knowingly accepted their conditions. Whether or not any similar condition of pre-emption was entered in the previous administration-paper

cannot affect this claim, which is brought on the contract under the recent settlement-paper, and not on any well-established custom apart from the contract made under the administration-paper, nor would the entry of the right of pre-emption in a former administration-paper necessarily establish, though it might be evidence towards proving, such a custom.