

(1878) 01 AHC CK 0005

Allahabad High Court

Case No: None

Maratib Ali

APPELLANT

Vs

Abdul Hakim and
Others

RESPONDENT

Date of Decision: Jan. 23, 1878

Citation: (1875) ILR (All) 567

Hon'ble Judges: Robert Stuart, C.J; Turner, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. The second plea is overruled because it was admitted that the existence of the right of pre-emption was entered in the record as a matter of agreement and not of custom, and on these averments the suit has been tried and the issues fully investigated; but the validity of the first plea must be admitted. The claim based on the wajib-ul-arz did not exclude a claim under Muhammadan law. The lower Appellate Court must determine whether the appellant had, under the Muhammadan law, the right of pre-emption, and secondly, if he had the right, whether he duly performed the conditions which, under the Muhammadan law, are essential to the validity of the right, namely, the immediate expression of his intention to purchase an immediate demand.