

(1877) 12 AHC CK 0008

Allahabad High Court

Case No: None

Parmeshar Das and
Another

APPELLANT

Vs

Sahib Zadah and
Others

RESPONDENT

Date of Decision: Dec. 6, 1877

Citation: (1875) ILR (All) 524

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

Bench: Division Bench

Judgement

Turner, J.

We are not satisfied that a conditional decree was improper in this case. It does not appear that the appellants ever rendered any accounts; indeed, they denied they were in possession as mortgagees, and inasmuch as no agreement had been made as to the amount at which the profits should be estimated, it was impossible for the respondents to have ascertained before suit what sum, if any, was due by them. The more proper course would have doubtless been for the respondents to have offered to pay what might be found due. Seeing that whether the decree is altered or not the respondents may immediately pay the balance and demand possession, and the appellants could not legally refuse it, we think it unnecessary to interfere with the decree in this case.