

Surja Vs. Joti Prasad

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Court : Allahabad

Decided On : Feb-02-1925

Reported in : AIR1925All681; 87Ind.Cas.445

Appellant : Surja

Respondent : Joti Prasad

Judgement :

Mukerji, J.

1. This is a defendant's appeal in a suit for sale to recover money on a bond executed by him. The main ground is that at the time of the execution of the deed he was a minor.

2. Both the Courts below have placed the burden of proof that he was a major on the date of the execution of the deed on the plaintiff. Even in this view of the case the lower Appellate Court found that the defendant had made certain admissions which were enough to shift the burden on to the defendant and that the defendant's evidence had failed to rebut the case made by the plaintiff and, therefore, decreed the plaintiff's suit. The defendant appeals.

3. The matter is now set at rest by the decision of a Bench of this Court in Narain Singh v. Chiranji Lal A.I.R. 1924 730 in which it was pointed out that in a case like the present the burden of proof lies on the person who says that the defendant was a minor at the time of the execution of the document. It is admitted that if the burden of proof lay on the defendant, he has entirely failed.

4. The result is that the appeal fails and is dismissed with costs including in this Court fees on the higher scale.