

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
Issur Chunder Shaha v. Doyamoyi Dasi,
from the High Court of Judicature at Fort
William in Bengal; delivered 25th May
1876.*

Present:

SIR JAMES W. COLVILLE.

SIR BARNES PEACOCK.

SIR MONTAGUE E. SMITH.

SIR ROBERT P. COLLIER.

THEIR Lordships are of opinion that no case has been made out on behalf of the Plaintiffs to induce them to think that the learned judges of the High Court came to a wrong conclusion in this case. They certainly appear to have made some mistake with regard to the case of Gokool Chunder. They speak of him as having proved the Ikrar of 1259 to be a genuine document, whereas it appears from his evidence that he was speaking of the Ikrar of 1275; but, independently of the evidence of that witness, it appears to their Lordships that there is quite sufficient evidence to show that that document was executed; and even independently of that document, there was clearly a *prima facie* case that the four sons of Maharaj Shaha were each entitled to one-fourth share of the property, and that the Defendant, as the representative of the third son, Joykissen, was entitled to an equal share with the Plaintiffs who were the grandsons of Mayarain; the Plaintiffs and Defendants *prima facie* were each entitled to a four anna share of the property in question.

No evidence has been given to show how the Defendant, as the representative of Joykissen, became entitled to a three anna share, and the Plaintiffs, as the representatives of Mayarain, to a five anna share, and a great portion of the case depends upon that being made out.

Then the evidence goes to show that the lady executed a kubulyut, but there is no sufficient evidence to justify their Lordships in coming to the conclusion that that document was executed; and if that document was not executed, there is no evidence at all to show that the Plaintiffs were entitled to a five anna share and the Defendant to a three anna share of the property.

Under these circumstances their Lordships think that the learned judges of the High Court came to a right conclusion, and they will therefore humbly recommend Her Majesty to affirm the decision of the High Court with the costs of this Appeal.