

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Haidar Ali Khan v. Nawab Ali Khan (now by Order of Revivor Naushad Ali), from the Court of the Judicial Commissioner, of Oulh; delivered July 18th, 1889.*

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Present :

LORD WATSON.

SIR BARNES PEACOCK.

SIR RICHARD COUCH.

[*Delivered by Sir Barnes Peacock.*]

THEIR Lordships are of opinion that the Decree of the Judicial Commissioner ought to be affirmed.

There is nothing in this case to show that the Defendant by any agreement, or by any arrangement, or other means, became clothed with any trust, as regards the lands included in the Sanad. The case therefore does not fall within the decisions of *Sookraj Koer v. The Government*, in 14 Moore's Indian Appeals 112, or the case of *Hurdeo Buksh* (6 Ind. Law Reports, 161). The Defendant is therefore entitled as proprietor to the lands included in the Sanad.

A question has been raised with regard to the lands included in Schedule C. As to those the plaintiff has claimed a proprietary right. If he had claimed a sub-proprietary right the Defendant might have given evidence to show that he was not entitled to any such right. Their Lordships, however, think that in affirming the Decree it ought to be without prejudice to any claim which the plaintiff may have to under-proprietary rights in respect of the property included in Schedule C.

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Their Lordships will humbly advise Her Majesty to this effect, and that the appeal should be dismissed.

The appellant must pay the costs of it.