

Judgment of the Lords of the Judicial Committee of the Privy Council, on the Appeal of The Land Mortgage Bank of India, Limited, v. Abul Kasim Khan and others, from the Court of the Judicial Commissioner of Oudh; delivered 11th November 1898.

Present:

LORD HOBHOUSE.
LORD MACNAGHTEN.
LORD MORRIS.
SIR RICHARD COUCH.

[*Delivered by Lord Macnaghten.*]

THE learned counsel in this case have very properly agreed that if their Lordships should be of opinion that the village of Bazidpur is included in the mortgage the Appeal must succeed. It appears to their Lordships perfectly plain that the village is included. After conveying by specific description the property originally offered in security, the mortgage deed throws in as an additional subject of conveyance "all other (if any) the mouzas, mehals, villages, lands, and shares of and interest in mouzas, mehals, villages, and lands comprised in the said sanad." It is admitted that this village was comprised in the sanad; it follows therefore that it passed by words, which include everything that the sanad comprised. There is no contradictory recital. After noticing the original application for the loan, the narrative winds up by saying that the Bank have agreed to make the advance on having repayment of the sum advanced and interest thereon secured "in manner herein-after appearing." That recital

points to the operative part of the deed as complete in itself, without anything in the preamble to control or confuse the natural and ordinary meaning of the language used. There is surely nothing so very strange in finding that a mortgage deed as finally settled contains something more than the security originally proposed. The reference to the sanad in the original proposal seems to suggest the course which the negotiations must have taken.

Their Lordships will therefore humbly advise Her Majesty that the Appeal ought to be allowed, and the suit dismissed with costs in the Courts below. The Respondents must pay the costs of the Appeal.