

Judgment of the Lords of the Judicial Committee of the Privy Council on the consolidated Appeals of Imdad Ahmad and others v. Raja Pateshri Pratab Narain Singh and another; and of Dwarka Prasad and others v. Same; and of Jagdat Ram Pathak and others v. Same; and of Dwarka Prasad and others v. Same; and of Rahmu Chaudhri and others v. Same; and of Rahmu Chaudhri and others v. Same, from the High Court of Judicature for the North-Western Provinces, Allahabad; delivered the 15th February, 1910.

Present at the Hearing :

LORD MACNAGHTEN.

LORD COLLINS.

SIR ARTHUR WILSON.

MR. AMEER ALI.

[*Delivered by Lord Collins.*]

The question on this Appeal is whether the Plaintiff, who is the Raja of Basti, is entitled to recover possession of a number of villages or parts of villages situate in the district of Basti. Seven connected suits brought by the same Plaintiff were tried at the same time, and were all dismissed by the Judge of first instance. On appeal to the

High Court of Judicature for the North-Western Provinces these decisions were in all cases but two reversed and judgment entered for the Plaintiff. The Defendants having obtained the necessary certificate now appeal to this Board in the six cases decided against them. At the trial before the District Judge the oral evidence seems to have been taken on commission, and consequently the Judge of first instance had no advantage over the High Court in hearing and seeing the witnesses, and this Board must deal with the Appeal under the like conditions.

The case for the Plaintiff was rested on two grounds—first, that the property in question was part of the Raj of Basti, which it was alleged was an impartible Raj, descending to the eldest son according to the rules of strict primogeniture; and it was further alleged that on the death of the Raja and the succession of his son to the Raj, a portion of the property was given to the brothers of the ruling Raja, who are called Babus, as “Hak Babuai” or maintenance, and on failure of male issue of such brothers the property so given reverts to the Raj after the death of the Babus and their widows, if any. Under this custom, the Plaintiff alleges that the property in dispute reverted to the Raj on the death, in the year 1887, of the surviving widow of Babu Chet Singh, who was nephew of a former Raja—Raja Pirthipal Singh. The Plaintiff also claimed to be entitled to the properties by virtue of a deed of assignment (sapurdnama) executed 21st March, 1848, by Babu Chet Singh, in favour of the then ruling Raja Indar Dawan Singh, and he relied also upon a “warasatnama” or will executed by Delahin Rup Kunwari, the surviving widow of Chet Singh, on the 6th January, 1858, in favour of his father, the late Raja Mahesh Sitla Bakhsh Singh.

The trial Judge held that the custom of the Raj set up by the Plaintiff was not proved. He also held that it was not proved that either the sapurdnama or the warasatnama was duly executed. The High Court, without formally differing from his finding as to the custom, considered it unnecessary to decide the point, since it was common ground that the sapurdnama, if a genuine document, was decisive of the case. The property in dispute had undoubtedly been acquired by Chet Singh in his lifetime. He was said and, as the High Court held, proved to have sold some of it to his wife, Rup Kunwari.

The warasatnama was therefore important not only as throwing confirmatory light on the sapurdnama, but as embracing the property said to have been thus disposed of by Chet Singh, so that the whole of the property in question, if both documents were genuine, passed *quâcunque viâ* to the Plaintiff. The High Court, after a very minute and elaborate examination of both the documents themselves, which they seem to have scrutinised much more closely than did the Court below, as well as the evidence in support of them, arrived at a clear conclusion that they were genuine documents and decisive of the case. They therefore reversed the decision of the Court below in six cases.

Their Lordships agree with the conclusions and reasoning of the High Court, and will humbly advise His Majesty that these Appeals be dismissed with costs.

IMDAD AHMAD AND OTHERS,

2.

**RAJA PATESHRI PRATAP
NARAIN SINGH AND ANOTHER,
AND 5 CONNECTED APPEALS.**

LONDON:
Printed for His Majesty's Stationery Office
By LOTE & MARCOSSON, Ltd., Dane Street,
High Holborn, W.C.
1910.