

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of Mahant  
Damodar Das v. Adhikari Lakhan Das,  
from the High Court of Judicature at Fort  
William in Bengal; delivered the 7th June,  
1910.*

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Present at the Hearing :

LORD MACNAGHTEN.

LORD COLLINS.

SIR ARTHUR WILSON.

[*Delivered by Sir Arthur Wilson.*]

This is an Appeal from a decision of the High Court of Calcutta, dated the 6th June, 1905, which over-ruled that of the Subordinate Judge of Cuttack, dated the 30th September, 1902.

The Suit out of which the Appeal arises, was filed in the last-mentioned Court, by the Plaintiff Appellant in his character as Mahant of the Math or Temple of a Hindoo Deity at Bhadrak in Balasore, and the object of the Suit was to recover possession of certain properties situate at Bibisarai in Jajpur, the Suit being based upon the allegation that the properties were debottar property, dedicated to the worship and service of the Plaintiff's Thakur, and held by the Defendant

as an Adhikari in charge of what was said to be a subordinate Math of Bibisarai.

The first Court decided in favour of the Plaintiff. That decision was reversed on Appeal by the High Court on the ground that the Plaintiff's Suit was barred by limitation. Their Lordships are of opinion that the learned Judges of the High Court were right.

There is now no dispute as to any question strictly of fact. The former Mahant was in possession of both Maths and of the property annexed to them. He died leaving two Chelas, between whom a controversy arose as to the right of succession to the Maths and the property annexed to them. That controversy was settled by an arrangement embodied for the present purpose in an Ekrarnama dated the 3rd November, 1874, executed by Sriram Das, senior Chela, in favour of the junior Chela, described as Adhikari Lakhan Das, by which the Math at Bhadrak was allotted in perpetuity to the elder Chela and his successors, while the Math at Bibisarai, and the properties annexed to it, were allotted to the younger Chela and his successors, for the purposes connected with his Math, subject to an annual payment of Rs. 15 towards the expenses of the Bhadrak Math. The parties to the present Suit stand in the place of the elder and younger Chelas respectively.

The learned Judges of the High Court have rightly held that in point of law, the property dealt with by the Ekrarnama was prior to its date, to be regarded as vested not in the Mahant but in the legal entity, the Idol, the Mahant being only his representative and manager. And it follows from this, that the learned Judges were further right in holding that from the date of the Ekrarnama the possession of the junior Chela, by virtue of the terms of that Ekrarnama, was

adverse to the right of the Idol and of the senior Chela, as representing that Idol, and that therefore the present Suit was barred by limitation.

For these reasons their Lordships will humbly advise His Majesty that this Appeal should be dismissed. As the Respondent has not appeared upon the hearing of the Appeal there will be no order as to costs.

In the Privy Council.

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**MAHANT DAMODAR DAS**

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**ADHIKARI LAKHAN DAS.**

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