

*Privy Council Appeal No. 79 of 1912. Bengal Appeal No. 11 of 1909.*

**Rajkumari Bhubaneshwari Kumar** - - *Appellant.*

*v.*

**The Collector of Gaya** - - - *Respondent.*

FROM

**THE HIGH COURT OF JUDICATURE AT FORT WILLIAM  
IN BENGAL.**

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF  
THE PRIVY COUNCIL, DELIVERED THE 7TH NOVEMBER 1913.

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*Present at the Hearing :*

LORD SHAW.  
LORD MOULTON,

SIR JOHN EDGE.  
MR. AMEER ALI.

[*Delivered by* LORD SHAW.]

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This is an Appeal from a Judgment and Order of date the 25th May 1909, which was pronounced by the High Court of Judicature at Fort William in Bengal, and which affirmed a Judgment and Order of date the 23rd September 1908, and the 2nd of March 1909, of the District Judge of Gaya.

The present proceedings were instituted on the 16th of July 1908 by an application which was made by the Collector to the District Court under Section 19H, Clause 4, of Act XI. of 1899. Before reading that section it may be stated that the general nature of the application was to declare that no inventory of the estate of the deceased as required by law had been filed, and that the Appellant was not willing to amend the

valuation of the estate to the satisfaction of the Collector.

In the defence lodged to those proceedings, this declinature and inability were reaffirmed by the Appellant, and accordingly the proceedings have taken their course.

The section of the Act of 1899 to which particular reference is made defines the function of the Collector in the following terms:—"The Collector, within the local limits of whose revenue-jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and enquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation."

The Collector, having a strong opinion as to the valuation emerging as a lump figure in the previous proceeding, initiated these proceedings under discussion. What the Appellant before their Lordships pleads is that the action or proceeding on the part of the Collector is excluded by the proviso of Subsection 4 of the Statute last quoted. That proviso is "that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by Section 277 of the Indian Succession Act, 1865, or, as the case may be,

“ by Section 98 of the Probate and Administration Act, 1881.”

It is, in the opinion of their Lordships, not a justifiable construction of this proviso to date the period of running from anything less than the lodging of the inventory required by the Statute. It will not satisfy this proviso that six months have elapsed from a period when a certain document, which might be classed as or denominated an inventory, satisfied a District Judge or any Judge. What he has to be satisfied of is that the *punctum temporis* from which the six months runs is the lodging of an inventory as required by Section 98. It was admitted by the learned Counsel for the Appellant that, accordingly the correct decision to be arrived at here depended upon the construction of certain words in Section 98, and as those are of general importance, the following citation is made:—

“ An executor or administrator shall, within six  
 “ months from the grant of probate or letters of  
 “ administration, exhibit in the Court by which  
 “ the same has or have been granted an  
 “ inventory containing a full and true estimate  
 “ of all the property in possession, and all the  
 “ credits, and also all the debts owing by any  
 “ person or persons to which the executor or  
 “ administrator is entitled in that character.”

The remainder of the section has no bearing on the subject in dispute in these proceedings.

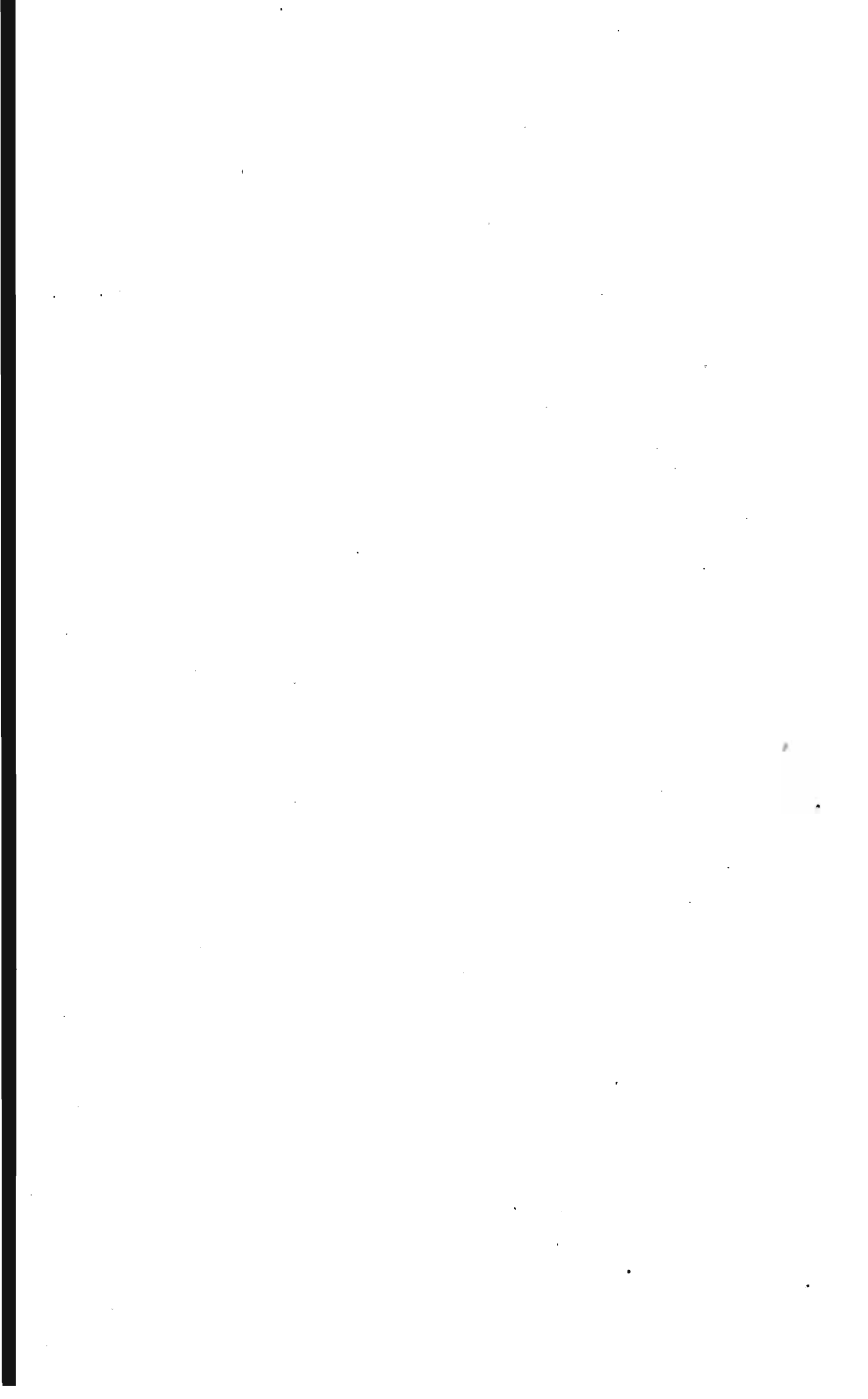
Their Lordships are clearly of opinion that no inventory satisfies this statutory requirement which omits the essential of this detail, namely, that its contents shall include “a full and true estimate of all the property in possession.” This being the statutory provision it is not alleged by the Appellant that any one document did contain such a full and true estimate. The

argument presented to their Lordships was that by massing together a variety of documents, including two which will now be referred to, and a mass of documents in another case, none of which have been brought in detail before the notice of the Board, there was, in the result, produced to the Court an inventory containing a full and true estimate.

In their Lordships' opinion the first objection to this operation, even although the operation itself as distinguished from the production of one document containing the details were legitimate, is that the first document to which reference is made is a list of the immoveable property belonging to the deceased. It has been not obscurely suggested in these proceedings that the immoveable property bore the relation to the moveable property of no less than at least nine in ten. So that with regard to nine-tenths of the estate of the deceased nothing is supplied except a list of the properties, a list without a single figure, and containing nothing, even by approximation to the words of the Statute, in the nature of a full and true estimate of the property in possession.

In their Lordships' opinion that is sufficient for the disposal of the case. Their Lordships are satisfied that a just conclusion has been arrived at by the Courts below, and they will therefore humbly advise His Majesty that this Appeal should be dismissed, and that the Appellant should pay the costs.

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In the Privy Council.

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RAJKUMARI BHUBANESHWARI  
KUMAR

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THE COLLECTOR OF GAYA.

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DELIVERED BY LORD SHAW.

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