

*Privy Council Appeals Nos. 27 and 13 of 1922.*

*Bengal Appeals Nos. 47, 48, 49, 50, 54, 56, 57, 60, 61 and 62 of 1919.*

Kumar Prasanna Deb Raikat - - - - - *Appellant*

*v.*

Uddhab Chandra Shaha, since deceased, and others - - - *Respondents*  
(7 Appeals.)

Same - - - - - *Appellant*

*v.*

Ainuddin Mahomed and others - - - - - *Respondents*  
(3 Appeals)

*Consolidated Appeals*

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 23RD APRIL, 1923.

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*Present at the Hearing :*

LORD BUCKMASTER.

LORD DUNEDIN.

LORD CARSON.

SIR JOHN EDGE.

LORD SALVESEN.

[*Delivered by* LORD BUCKMASTER.]

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Their Lordships see no reason for the further consideration of this case. The whole question for determination is whether or no there has been proved in the suits which have ended in these appeals anything which will rebut the presumption established by Section 50, sub-section 2 of the Bengal Tenancy Act,

1885. That presumption is stated to follow from these conditions, that :—

“ If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement.”

The presumption upon which the appellant relies is to be found in the form of the *kabuliyat* under which the respondents held their title. This has been the subject of consideration by the High Court and by many judges in the various suits. The real question upon the face of that *kabuliyat* is whether it shows that there has been a new tenancy then created, or whether it is executed in reliance upon a pre-existing tenure.

Their Lordships have considered the document carefully, and they see no reason whatever to differ from the views expressed in the courts through which this case has proceeded that the *kabuliyat* undoubtedly proceeds upon the basis that there were pre-existing rights, and consequently it cannot be relied upon for the purpose of showing that there has been a change in the rent since the date of the Permanent Settlement.

For this reason their Lordships will humbly advise His Majesty that these appeals should be dismissed. As the respondents have not appeared, there will be no order as to costs.



In the Privy Council.

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KUMAR PRASANNA DEB RAIKAT

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UDDHAB CHANDRA SHAHA, SINCE DECEASED,  
AND OTHERS.  
(7 Appeals.)

SAME

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AINUDDIN MAHOMED AND OTHERS.  
(3 Appeals.)  
(Consolidated Appeals.)

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DELIVERED BY LORD BUCKMASTER.