

Moulvi Zahir-ul-Said Alvi - - - - - *Appellant*

v.

R. S. Seth Lachhmi Narayan - - - - - *Respondent*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER, CENTRAL
PROVINCES.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 15TH JULY, 1932.

Present at the Hearing :

LORD BLANESBURGH.

LORD MACMILLAN.

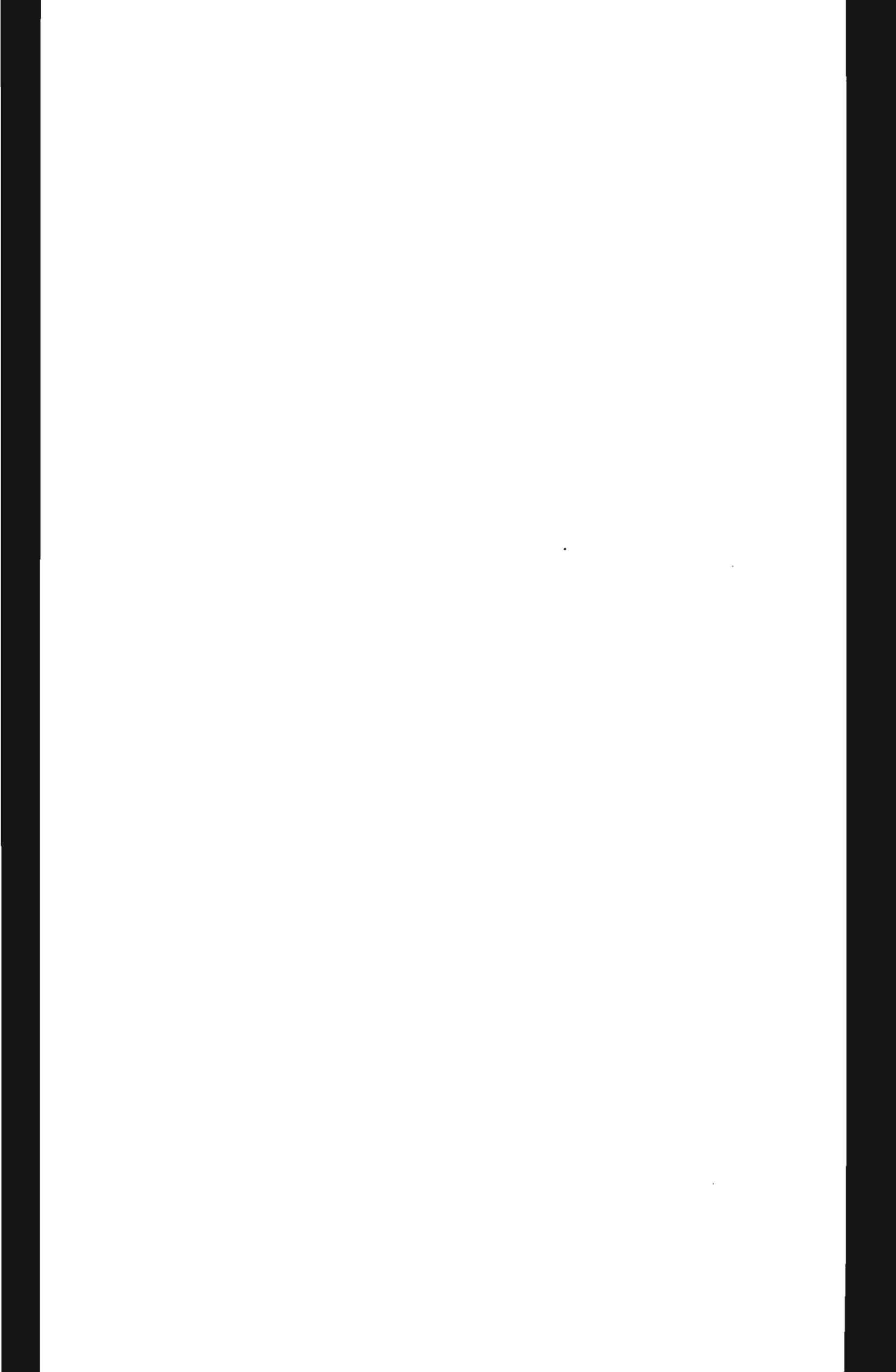
SIR GEORGE LOWNDES.

[*Delivered by* LORD BLANESBURGH.]

In this case the only question their Lordships have now to determine is whether the decree appealed from, of the 21st October, 1926, which in terms is not expressed to be by consent, was in fact made by consent. In obedience to an order of His Majesty in Council of the 12th February, 1931, made in accordance with advice humbly tendered by their Lordships to His Majesty, a remit was sent to the Court of the Judicial Commissioner of the Central Provinces, being the Court which pronounced the decree in question, requesting that Court to inform their Lordships whether or not the decree was in fact made by consent.

Their Lordships have now been informed by the Court of the Judicial Commissioner in a report made to the Board, that its judgment of the 21st October, 1926, and the decree appealed from following thereon, were professedly made with the consent of the parties: that is to say, the decree was consensual and did not, except so far as authorised by consent, embody any judicial finding by the Court itself.

Accordingly the decree is one from which no appeal to His Majesty in Council can be entertained. Only in substantive proceedings appropriate to that particular remedy can it, if at all, be set aside. As the Court of the Judicial Commissioner has declared that it proceeded entirely upon the consent of parties in making the decree appealed from, their Lordships have not thought it necessary to consider the other statements in its report as to the sufficiency or otherwise of that consent. Upon that declaration alone, they must deal with the appeal on the footing that it is entirely incompetent, and they must humbly advise His Majesty that it be dismissed, and with costs.



In the Privy Council.

MOULVI ZAHIR-UL-SAID ALVI

o.

R. S. SETH LACHHMI NARAYAN.

DELIVERED BY LORD BLANESBURGH.

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