

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Thakur Jawahir Singh v. Lachhman Das,  
from the Court of the Judicial Commissioner of  
Oudh ; delivered the 17th February 1905.*

Present :

LORD DAVEY.

LORD ROBERTSON.

SIR ARTHUR WILSON.

[*Delivered by Lord Davey.*]

IN this case a decree was made by the Subordinate Judge of Sitapur directing accounts to be taken between the Appellant (Plaintiff) and the Respondent (Defendant), who stood in the relation of customer and banker, from the 11th October 1878 to the 12th October 1896. There were objections to ten items charged against the Plaintiff. Every one of those objections has been carefully considered by the Subordinate Judge and by the Judicial Commissioners, who have had the advantage of seeing, and examining for themselves, the account books and other books produced by the parties. Their Lordships have not had that advantage. It is unnecessary to go through those items one by one. As regards items 2 to 8, there are concurrent findings of the two Indian Courts, the question in each case being a pure question of fact to be determined on the evidence adduced on the one side and on the other. The 9th item was withdrawn, and their Lordships have nothing to do with that. There remain only the 1st and 10th items on which there are not concurrent findings. The

1st item consists of two sums, as to which Mr. De Gruyther, on behalf of the Appellant, very fairly stated to their Lordships that he could not resist the finding of the Court of the Judicial Commissioner to the effect that they were not within the reference at all, because the sums in question were received at a date subsequent to that to which the accounts were ordered to be taken.

As to the last item, which relates to the charge of interest on a certain mortgage, there is a difference of opinion between the two Courts in India; but—as Mr. De Gruyther very fairly said, and their Lordships entirely agree with him—when the facts are looked into, it is found that no direction was given by the Plaintiff to the Defendant to charge the amount of the mortgage against his current account, and that no objection could validly be made to the charge of the interest upon it until the Plaintiff gave directions that the principal should be paid off.

Their Lordships, therefore, will humbly advise His Majesty that the Appeal should be dismissed. The Appellant will pay the costs of the the Appeal.

Mr. Bonnerjee, on behalf of the Respondent, has drawn their Lordships' attention to the fact that upwards of about 1,300 pages of the printed record in this Appeal are taken up with the accounts from 1878 to 1896, which ought never to have been printed at all, inasmuch as the Appeal only related to the ten objections already dealt with by their Lordships.

Their Lordships think that the parties in compiling this record might have exercised a greater discretion in excising from it anything that was not material to the subject-matter of the Appeal. Their Lordships have previously had occasion to remark on the extent to which,

in Indian Appeals, perfectly irrelevant documents which never are used, and which apparently could not possibly become material for any purpose on the hearing of the Appeal, are allowed to swell the bulk of the Record, thereby causing much unnecessary trouble and expense.

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