

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Thakur Anant Singh v. Thakur Durga  
Singh, from the Court of the Judicial  
Commissioner of Oudh; delivered the 7th  
May, 1910.*

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Present at the Hearing :

LORD MACNAGHTEN.

LORD COLLINS.

SIR ARTHUR WILSON.

MR. AMEER ALI.

[*Delivered by Lord Collins.*]

The question on this Appeal is as to the right of a stepbrother in a Hindu family to share equally with a brother of the whole blood in the succession of a deceased brother. Ratan Singh died in 1899, leaving certain shares in the Deokaha estate, as well as some house property. He was succeeded by his widow, who died in April, 1903. On her death the Appellant Anant Singh, his stepbrother, claimed to be equally entitled with Durga Singh, his sole surviving brother of the whole blood, to share in his succession. His contention was upheld by the Subordinate Judge, but on Appeal the learned Judicial Commissioners overruled his decision and

held that the succession passed to the brother of the whole blood, the now Respondent, alone. The learned Judicial Commissioners, in their Lordships' opinion, gave excellent reasons for refusing to regard the evidence adduced by the Plaintiff as sufficient to establish such a special custom in the family as to rebut the ordinary presumption that the Mitakshara Law prevailed. It has been pointed out more than once at this Board that there is no class of evidence that is more likely to vary in value according to circumstances than that of the *Wajib-ul-arzes* (*Muhammad Imam Ali Khan v. Sardar Husain Khan*, L.R. 25, Ind. App. 161, 169, and *Musammatt Parbati Kunwar v. Rani Chandarpal Kunwar and others*, L.R. 36, Ind. App. 125), and where, as here, from internal evidence, it seems probable that the entries recorded connote the views of individuals as to the practice that they would wish to see prevailing rather than the ascertained fact of a well-established custom, the learned Judicial Commissioners properly attached weight to the fact that no evidence at all was forthcoming of any instance in which the alleged custom had been observed. The question involved was one of fact only, and their Lordships see no reason whatever to differ from the opinion of the learned Judicial Commissioners.

Their Lordships will humbly advise His Majesty that the Appeal be dismissed with costs.



In the Privy Council.

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**THAKUR ANANT SINGH**

2.

**THAKUR DURGA SINGH.**

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LONDON :  
Printed for His Majesty's Stationery Office,  
By LOVE & MALCOMSON, LTD., Druce Street,  
High Holborn, W.C.  
1910.