

Privy Council Appeal No. 130 of 1918.
United Provinces Appeal No. 1 of 1917.

Rani Bijai Raj Kunwar - - - - - *Appellant*
v.
Thakur Jai Indra Bahadur Singh - - - - - *Respondent*

FROM

THE COURT OF THE BOARD OF REVENUE FOR THE UNITED
PROVINCES OF AGRA AND OUDH.

Privy Council Appeal No. 16 of 1921.
Oudh Appeal No. 26 of 1918.

Thakur Jai Indra Bahadur Singh - - - - - *Appellant*
v.
Rani Bijai Raj Kunwar - - - - - *Respondent*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER OF OUDH.
(*Consolidated Appeals.*)

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 10TH APRIL, 1922.

Present at the Hearing :

VISCOUNT CAVE.
LORD SHAW.
LORD PHILLIMORE.
SIR JOHN EDGE.
MR. AMEER ALI.

[*Delivered by* SIR JOHN EDGE.]

These are two consolidated appeals. In the earlier of these appeals Rani Bijai Raj Kunwar is the appellant, and Thakur Jai Indra Bahadur Singh is the respondent. It is an appeal from a decree or order of the 16th December, 1916, made by the Board

of Revenue of the United Provinces of Agra and Oudh in appeal in a suit which was brought in the Court of the Deputy Commissioner of Kheri on the 19th March, 1915, by the then manager under the Court of Wards of the property of Thakur Jai Indra Bahadur Singh, then a minor, against Rani Bijai Raj Kunwar, to have Rs. 5,542,11.9 assessed as rent on mauza Chhauch under Section 107G of Act 22 of 1886. In the later of the two consolidated appeals Thakur Jai Indra Bahadur Singh is the appellant and Rani Bijai Raj Kunwar is the respondent. It is an appeal from two decrees, of the 31st January and 30th August, 1918, made by the Court of the Judicial Commissioner of Oudh in appeal in a suit which was brought in the Court of the Subordinate Judge of Lakhimpur on the 27th July, 1915, by Rani Bijai Raj Kunwar against Thakur Jai Indra Bahadur Singh for a declaration that she was entitled to hold mauza Chhauch for her life rent free, under her deceased husband's will, and that the mauza was not liable to be assessed to rent during her lifetime. It is to be mentioned here that a chak which is within mauza Chhauch is known as Chak Khakra. That chak belongs to other persons; in Chak Khakra neither of the parties to these consolidated appeals has or claims interest or title. Where mauza Chhauch is later referred to in this judgment, it is to be understood that what is referred to is mauza Chhauch, excluding Chak Khakra.

After the suppression of the Mutiny of 1857, the taluq or estate of Mahewa, which included mauza Chhauch, was in the Oudh Summary Settlement settled with Gajrang Singh; he died in 1860, and his brother Girwar Singh succeeded to the estate. Girwar Singh died in 1865, and Balbhaddar Singh succeeded to the estate. Balbhaddar Singh died in 1898, and on his death his widow claimed to be entitled to the estate of Mahewa; her claim was resisted by Rajindra Bahadur Singh, who was Balbhaddar Singh's son. He claimed to be entitled to the estate. These conflicting claims resulted in litigation, and ultimately the Board of the Judicial Committee of the Privy Council decided that Rajindra Bahadur Singh was entitled to the estate, and he entered into possession of the Mahewa estate in 1905 or 1906.

In the first Regular Settlement in Oudh mauza Chhauch (except Chak Khakra) was, with plots of cultivated lands in eight other mauzas, recorded under the heading "Sir" as in the possession of the widow of Girwar Singh. By that entry in the Register it was meant that mauza Chhauch and those other plots had been given to her by Girwar Singh for her maintenance. Before the next regular settlement in Oudh the Revenue Authorities decided that in future in the Revenue Registers only such lands as were actually home farm lands of the Taluqdar should be entered under the heading of "Sir," and accordingly mauza Chhauch was then entered in the Revenue Register as "muafi"—that is, as rent-free land. When Raghubans Kunwar, widow of Balbhaddar Singh, took possession of the Mahewa estate under her claim of title, she was entered in the Revenue Register as Muafidar of mauza Chhauch.

After the decision in his favour of the Board of the Judicial Committee, Rajindra Bahadur Singh, on the 26th February, 1906, obtained, as owner of the Mahewa estate, possession of mauza Chhauch and of all those cultivated plots in the eight other villages.

Rajindra Bahadur Singh, as the owner of the estate of taluq Mahewa, had powers to give, sell, mortgage or bequeath the taluq or any part of it to whomever he pleased, but his widow, should he leave one, would be entitled to maintenance suitable to her condition as his widow. Rajindra Bahadur Singh in 1911 handed over to Rani Bijai Raj Kunwar, his wife, possession of mauza Chhauch, and on the 1st September, 1911, he presented a petition to the Revenue Authorities, which, so far as is material, was as follows :—

“ 1. The petitioner is the absolute owner of taluka Mahewa, district Kheri, and the village of Chhauch bearing the ‘hadbast’ (boundary) No. 249 forms part of taluka aforesaid. The petitioner has all proprietary powers in respect of his taluka.

“ 2. The petitioner has given the entire village of Chhauch to his wife as ‘muafi.’ The revenue of this village would be paid from the income of the taluka and the village would, always, remain in the possession of his wife, as revenue-free ‘muafi.’

“ 3. This application is therefore presented, and it is prayed that entries regarding mutation of names in favour of the aforesaid wife may be made in the revenue department as herein prayed for and the village may be entered as ‘muafi’ under clause 6.”

On that the Tahsildar reported, on the 10th November, 1911, to the Deputy Collector as follows :—

“ SIR,— An application was made by Thakur Raj Indar Bahadur Singh, talukdar of Mahewa, to the effect that he had given mauza Chhauch in pargana Kheri to his wife as muafi, that its revenue would be paid from the taluka, and that it might be entered in the name of the Rani as muafi. An enquiry was made. A writing from the talukadar corroborates the contents of the application. The talukadar has given mauza Chhauch to his wife, the Rani, as muafi. As no document has been executed, mutation proceedings cannot be taken. Of course, as reported by the office, entries can be made in papers, under clause 6. In my opinion, there is no harm in making entries in this way. Under clause 6A, under the head of muafi, in the column of remark, these words should be written: ‘The whole of this village has been given by the talukadar to the Rani as “muafi” for her maintenance.’ Hence this report is submitted to sanction the entries aforesaid.”

Thereupon the Assistant Collector made the following order :—

“ Claim for mutation of names in respect of mauza Chhauch, pargana Kheri.

“ ORDER :

“ I have no objection to the above being noted in the remarks column.

“ (Sd.) M. ABDUL LATIF KHAN, Assistant Collector, 1st class.

“ 11th December, 1912.”

In the Register relating to mauza Chhauch it was accordingly entered that the village was “rent-free land granted by the zamindar,” and under the heading “Remarks” that—“The whole

of this village is by way of maintenance allowance of Bari Bahu Sahiba (the Rani Bijai Raj Kunwar) muafi on behalf of ' talukadar ' ' ' (talukdar). It is not contended, on behalf of Rani Bijai Raj Kunwar, that by the petition of the 1st September, 1911, and those entries in the Register any indefeasible title in mauza Chhauch for her life was conferred on her by Rajindra Bahadur Singh, or that he could not thereafter have sued under Act XXII of 1886 as amended by Act IV of 1901, to have rent assessed upon the mauza, but it is contended on her behalf that the petition of the 1st September, 1911, and those entries in the Register consequent on it show that it was then Rajindra Bahadur Singh's intention that Rani Bijai Raj Kunwar should hold mauza Chhauch for her life free of liability to pay rent. In fact, she held the mauza from 1911 until his death rent-free.

Rajindra Bahadur Singh died on the 1st October, 1912. Rajindra Bahadur Singh had, on the 14th June, 1907, made his will, which so far as it is material, is as follows :—

“ Will.

“ I, Thakur Rajendra Bahadur Singh, Taluqadar of Mahewa, son of Thakur Sheo Singh, resident of Garhi Prasadpur, pertaining to mauza Madhaia, pargana and district Kheri, declare as follows :—

“ This borrowed life is uncertain, and God has not as yet blessed me with a son ; but I have a daughter, three years old. I have a strong hope that He will grace me with a male child. Therefore, in order to avoid a dispute in future, I make a will to the effect that if a son is born to me, he will be the owner, and take possession of all my movable and immovable properties after my death, that in case I get more sons than one, the eldest will be the owner of all my estate according to the rule of succession to the ' gaddi,' and the remaining sons will get allowance ; that if no male child is born to me, then dear Jai Indar Bahadur Singh, *alias* Jhunu Bhaiya, son of Kunwar Sheo Indar Bahadur Singh, who is the son of my own brother, shall be the owner, and take possession of all the movable and immovable properties owned and possessed by me at the time of my death, or to which I have a right of ownership, or possession of any kind, or to which I may acquire a right in future, without the exception of anything or right ; that Musamat Jai Raj Kunwar, my wife, shall get Rs. 500 per mensem from the estate in cash, besides the ' sir ' lands in her possession ; that my wife shall be the owner, and take possession of all my personal goods, such as clothes, ornaments, utensils used in eating and cooking, articles of decoration of the residential house, etc. ; that Rs. 250 per mensem shall be paid from the estate to my younger brother, Kunwar Sheo Indar Bahadur Singh, who is living with me up to this time, besides the ' sir ' lands possessed by him, and both these two allowances in cash shall be a charge on the estate, and the person in possession of the estate shall be liable for the same ; that the person in possession of the ' taluka ' shall be responsible to pay Rs. 50,000 for the expenses of each of the daughters who may be unmarried at the time of my death ; that if, God forbid, dear Jai Indar Bahadur Singh, aforesaid, die intestate without leaving a male child, then his nearest male heir descending from Mahendra Bahadur Singh, Narendra Bahadur Singh and Sheo Indar Bahadur Singh, will be entitled to succeed to the ' gaddi ' and to be the owner of all the estate. . . . ”

Thakur Jai Indra Bahadur Singh is the nephew described in the will as Jai Indar Bahadur Singh, and Rani Bijai Raj Kunwar

is in the will referred to as Musammat Jai Raj Kunwar, the testator's wife.

Thakur Jai Indra Bahadur Singh did not succeed by right of inheritance to the Mahewa estate or to any part of it; his title depends on the will, and such interest in the Mahewa estate as he has depends on the will. He took under the will, and not otherwise. On behalf of Rani Bijai Raj Kunwar it is contended that under the will mauza Chhauch (Chak Khakra excepted) passed to her for her life free of rent, and that mauza Chhauch will not vest in Thakur Jai Indra Bahadur Singh until she has died, and that until that event shall have happened Thakur Jai Indra Bahadur Singh will not be the proprietor of mauza Chhauch within the meaning of Act XXII of 1886 as amended by Act IV of 1901, or entitled to sue to have any rent assessed upon that mauza. That contention depends upon the true construction of the will, which involves the meaning of words in the will which have been thus translated by the official translator: "That Musammat Jai Raj Kunwar, my wife, shall get Rs. 500 per mensem from the estate in cash besides the 'sir' lands in her possession." That is the official translator's rendering of the vernacular words in the will. In the judgment of the Board of Revenue of July, 1916, the words in question are translated thus: "To my wife for life five hundred rupees per mensem besides sirat makbuza will be given from the estate." In their Lordships' opinion the two translations have the same meaning. Sirat is the plural of sir and sirat makbuza means sir lands in possession. It does not appear to have been doubted by any of the Courts in India that the "sir lands in her possession" passed by the will to Rani Bijai Raj Kunwar as a rent-free estate for her life. But the question is, What did Rajindra Bahadur Singh mean by "sir lands in her possession" in his will. That he intended by his will to bequeath to Rani Bijai Raj Kunwar an absolute estate for her life in the "sir lands in her possession" and not merely a right of tenancy or other subordinate interest in them, and that he intended that she alone should be the proprietor of those lands during her life, their Lordships have no doubt.

The Courts in India who have had these suits before them arrived at different conclusions as to what Rajindra Bahadur Singh meant by the words "sir lands in her possession." The Deputy Commissioner of Sitapur, who tried the Revenue Court suit, in reference to the words "sir lands possessed by her," as he translated the will, stated in his judgment that—

"These last words must be taken to refer to the 'sir' lands possessed by the Rani at the time of the testator's death. The village in suit is not 'sir' land in the strict sense of the term, but I think there can be little doubt that the word 'sir' is used by the testator in a loose sense, and signifies 'land held as "guzara."' This is not seriously disputed by the plaintiff. It is then clear that the testator wished that the defendant should continue to hold her 'guzara' land rent-free for her lifetime."

He, however, being of opinion that Thakur Jai Indra Bahadur Singh was proprietor, and was thus entitled to sue to have mauza Chhauch assessed to rent, gave Thakur Jai Indra Bahadur Singh a decree assessing the rent. From his decree there was an appeal by Rani Bijai Raj Kunwar Singh to the Commissioner of the Lucknow Division, who in his judgment stated, in reference to Rajindra Bahadur Singh's will :

"By his will he bequeathed to his widow . . . and the 'sir' or 'guzara' land. . . . It had, before the talukdar's death, been duly entered as 'guzara' held rent free.

"The present talukdar, nephew of the late talukdar, who is under the Court of Wards, succeeded to the property under the terms of the will. He sues now to have rent assessed, as the rent-free 'guzara' of his aunt, the widow of the testator.

"The Deputy Commissioner has decreed the claim. It appears to me that the suit should never have been brought. The present talukdar, as represented by the Court of Wards, is willing himself to be benefited by the terms of the will. But he wishes to deprive his benefactor's widow of the benefit, which was meant to accrue to her under the same will. We must clearly take it that the defendant-appellant is entitled under the terms of the grant or will to hold this village rent-free for her life."

The Commissioner of the Lucknow Division dismissed the Revenue Court suit. From that decree dismissing the suit Thakur Jai Indra Bahadur Singh appealed to the Board of Revenue. The Board of Revenue in their judgment said :

"It is urged by the respondent that under the Succession Act of 1865, she has devised (had devised to her) the land held by her as 'sirat makbuza,' and the effect was to give her a proprietary title for life. It is further urged that, as the village in suit was held by her in the same way as she had held the other lands at the time of the will, that the result of the will also was to confer on her a proprietary grant for life of this village. It may be admitted that the words 'sirat makbuza' in the will were certainly intended to cover the rent-free grants held by her at the time of the execution of the will. The appellant argues, however, that there is a great difference between a whole village and plots of land within a village, however numerous the latter might be, and that a whole village could not be termed 'sir,' however loosely the word is used, and that the fact that the previous talukdar made a separate application in 1911 about the whole village clearly shows that he meant to differentiate it from the other land, and for this argument there is a good deal to be said."

In the result the Board of Revenue held that Section 107G of Act XXII of 1886 as amended by Act IV of 1901 applied, and made a decree assessing mauza Chhauch to rent. From that decree Rani Bijai Raj Kunwar has appealed to His Majesty in Council.

The Subordinate Judge of Kheri, before whom the civil suit first came, framed six issues, the first of which was, "Is the suit not cognizable by the Civil Court?" He held that the questions whether the plaintiff (Rani Bijai Raj Kunwar) was "entitled to hold the village (mauza Chhauch) rent-free as a life interest bequeathed to her under her late husband's will and that she is not liable to assessment of rent during her lifetime" were exclusively for the Court of Revenue, and by his decree dismissed the

suit. Rani Bijai Raj Kunwar appealed from that decree to the Court of the Judicial Commissioner of Oudh. The learned Judicial Commissioners on the appeal held that the Civil Court had jurisdiction to entertain the suit for a declaration of Rani Bijai Raj Kunwar's legal title to mauza Chhauch under her husband's will, but that the Civil Court had not jurisdiction to give her a declaration that mauza Chhauch was not liable to be assessed to rent during her lifetime, and remanded the suit to the Court of the Subordinate Judge for the trial of certain issues.

The suit on the remand came before another Subordinate Judge, who apparently was not himself familiar with the popular descriptions in Oudh applied to lands held for maintenance. He recorded much evidence on the subject. One of the witnesses, who had been for some years a Naib Tahsildar in Lakhimpur, said: "Every sort of cultivated land, whether rent-free or assessed to rent, and whether held by grantee, or Shankahapdar, and under proprietor or ordinary tenant, is commonly called *sir*. I never heard a whole village called as *sir* of any body, though I heard a whole village called a guzara of a guzaradar." The Subordinate Judge's comment on the Naib Tahsildar's evidence was: "His evidence goes to show that when a member of a Taluqdar's family cultivates guzara land given to him and calls it his *sir*, others also call it by the same name." Another witness said: "Thakur Rajindra Bahadur Singh thought that land given to the members of a Taluqdar's family for their guzara are called their *sir*. He considered the village Chhauch to be *sir* of the plaintiff (Rani Bijai Raj Kunwar)." There was much other evidence, and in conclusion the Subordinate Judge found that "the word *sir* is used in common parlance to describe a muafi grant of plots of land made to a member of the Taluqdar's family for maintenance, but that a whole village assigned for a similar purpose is not called by the name of *sir*. . . . I find that the words 'sirat-makbuza' were used in the will in this sense."

On the return to the order of remand the learned Judicial Commissioners proceeded to consider what Rajindra Bahadur Singh meant by the term "sirat-makbuza" (sir lands in possession) which he used to describe the bequest to his wife Rani Bijai Raj Kunwar. They considered that the opinions expressed by the witnesses on that subject did not possess any particular value for the decision of that question. It has not been shown to their Lordships that the Judicial Commissioners formed an incorrect estimate of the value of that oral evidence. The learned Judicial Commissioners took, in their Lordships' opinion, safer ground for the consideration of that question in the history of the manner in which mauza Chhauch had been dealt with since it had been settled with Gajrang Singh, and particularly by Rajindra Bahadur Singh. They also placed great reliance on the introduction to the late Mr. Sykes' well-known and valuable compendium of the law relating to the Taluqdars of Oudh, and quoted the following passage which occurs in Mr. Sykes' observations on

the various classes of *sir* in Oudh. Mr. Sykes, in discussing that subject, stated that :—

“ Amongst the various classes of *sir* under proprietors who never had the full and exclusive proprietary right of the whole village is the land frequently assigned to the junior branches of a family for their support, instead of breaking up the estate and giving them the ancestral shares to which they were entitled. Such appanages are known in Oudh by the name of *sir*. They also form one and the chief class of *Jewan Birt*, which is a name also sometimes applied to this class of *sir*. Whole villages assigned in this way were also called Bhayai villages.”

In support of that statement by Mr. Sykes, the Judicial Commissioner quoted a passage from Volume I of the Oudh Gazetteer of 1877, which was published under the authority of the Government, and a passage from the Fyzabad Settlement Report of 1880. The passage from the Oudh Gazetteer is as follows :—

“ Second, it was common to assign to the junior branches of a family certain lands for their support, instead of giving them the ancestral shares to which they were entitled. Such appanages were also known as *sir*.”

The passage quoted from the Fyzabad Settlement Report runs thus :—

“ 233. *Sir* is in most cases an appanage of proprietorship, the lands constituting the home-farm of a proprietor. It is the name, too, given to the lands assigned to the junior branches of a family in lieu of the ancestral share to which they were entitled.”

The Judicial Commissioners did not overlook the fact that the passages which they quoted from the Oudh Gazetteer and the Fyzabad Settlement Report had reference to the District of Fyzabad and not to Oudh generally. They observed in their judgment: “ The above quotations refer to the district of Fyzabad, but the meaning of the word *sir*, given therein appears to us clearly to be a meaning which was applied generally in Oudh.” Nor did the Judicial Commissioners overlook Section 108 of Act XXII of 1886, which enacted how the term “ *sir* ” should be understood officially in Oudh. In reference to that section they said: “ The restricted meaning of the word *sir* given in Act XXII of 1886 is a meaning based to some extent upon the meaning of the word in the Province of Agra, and is largely the creation of the English Revenue Authorities. We consider that the learned Counsel for the appellant (Rani Bijai Raj Kunwar) is correct in his contention that the word *sir* used by an Oudh man would bear the meaning assigned to it by Mr. Sykes, and would not be confined to the meaning which it bears in Act XXII of 1886.” Their Lordships see no reason to disagree with that conclusion of the learned Judicial Commissioners.

Referring to the history of taluqa Mahewa, the Judicial Commissioners correctly stated in their judgment that mauza Chhauch (excepting Chak Khakra, which belonged to another and distinct family) and cultivated plots in eight other villages of the taluqa were in the possession of Rani Bijai Raj Kunwar at the time of her husband's death; that some of those plots had been handed over to her by her husband, Rajindra Bahadur

Singh in 1907, and the remainder of them in 1908 ; that he had instructed the Patwari to have them entered in the Revenue Register in her name ; and that those plots of cultivated lands had been entered into the first Regular Settlement as the " sir " of the widow of Girwar Singh. The Judicial Commissioners also state that the Counsel who appeared before them admitted that those plots of cultivated lands in the eight villages were sirat-maqbuza, and must be given to Rani Bijai Raj Kunwar under the terms of the will, but he contended that mauza Chhauch could not pass to her under the description of sirat-maqbuza. The Judicial Commissioners came to the conclusion that in 1911 Rajindra Bahadur Singh had given mauza Chhauch (excepting Chak Khakra) to Rani Bijai Raj Kunwar as rent-free, and that the description sir-maqbuza included mauza Chhauch (less Chak Khakra), and that under the will she took an estate for her life in the taluqa free of rent, and they gave her a decree declaring that she " is entitled to hold possession during her life of the village Chhauch, less Chak Khakra, pargana and district Kheri, under the will dated the 14th June, 1907, executed by Thakur Rajindra Bahadur Singh, the late Taluqdar of Mahewa." From that decree Thakur Jai Indra Bahadur Singh has appealed to His Majesty in Council.

After a careful consideration of all the facts in these consolidated appeals, their Lordships have come to the conclusions that the words sirat-maqbuza in the will did apply to and cover not only sir lands which might be accurately described as " sir," but also mauza Chhauch (less Chak Khakra), and that Rajindra Bahadur Singh, in confirmation of his gift of 1911 to his wife, Rani Bijai Raj Kunwar, of mauza Chhauch (less Chak Khakra) rent-free for her life, did by his will intend to bequeath, and did bequeath, to her mauza Chhauch (less Chak Khakra) for her life as a proprietor, and without any liability to have it assessed to rent ; and they also are of opinion that Thakur Jai Indra Bahadur Singh, who takes his interest in taluq Mahewa under that will, and whose only title to any part of taluq Mahewa is under that will, cannot repudiate the condition of the will that mauza Chhauch should be held by Rani Bijai Raj Kunwar for her life rent-free.

It has been contended on behalf of Thakur Jai Indra Bahadur Singh in these consolidated appeals that the decision of the Board in *Parbati Kunwar v. The Deputy Commissioner of Kheri and another* (45 I.A. 111) governs this case. That contention was based on a misconception. In that case the plaintiff, who sued for an enhancement of rent, was the " proprietor " of the mahal there in question within the meaning of Section 107A of Act XXII of 1886 as amended by Act IV of 1901, and was suing a thikadar who held under a lease. In this case Thakur Jai Indra Bahadur Singh is not a proprietor of mauza Chhauch or of any part of it, and will not be the proprietor while Rani Bijai Raj Kunwar continues to be the proprietor for her life, and Act XXII of 1886 as amended by Act IV of 1901 does not apply.

Their Lordships will humbly advise His Majesty that the appeal in which Rani Bijai Raj Kunwar is the appellant should be allowed with costs, and the decree or order of the Board of Revenue of the United Provinces of Agra and Oudh of the 16th December, 1916, be set aside and the decree of the Commissioner of the Lucknow Division of the 7th January, 1916, be restored and affirmed, and that the appeal in which Thakur Jai Indra Bahadur Singh is the appellant be dismissed with costs.

In parting with this case their Lordships desire to add one further observation upon a matter which in other cases has often before been animadverted upon, but apparently with small result, namely, the manner in which the record in Thakur Jai Indra Bahadur Singh's appeal has been prepared. When this record, which consisted of 1,134 pages, was received by the Registrar of the Privy Council it appeared to him that a large part of it, consisting of lists of property in tabular form, was unnecessary for the purposes of the appeal, and he communicated this view to the London solicitors with a suggestion that Counsel should be consulted as to eliminating this portion of the printed book. As a result the parties agreed between themselves, on the advice of their Counsel, to omit over 800 pages, which were taken out of the books and not referred to again, and this shows that they should never have been included. The persons primarily responsible for this reckless waste of money were no doubt Thakur Jai Indra Bahadur Singh and his advisers in India, and had he won the appeal he would certainly not have received any costs in respect of this part of the record. But at the same time their Lordships think that a duty lies upon the Court to exercise control upon the wholesale inclusion of irrelevant documents, a duty which in this case was certainly not performed. A few weeks ago, in another appeal from the same Court, their Lordships drew attention to the fact that the record contained at least 781 unnecessary pages, and they do so again with the earnest hope that the Judges of the Court of the Judicial Commissioner will take such steps as will prevent in the future the continuance of what their Lordships consider a scandal and a hindrance to the proper administration of justice.



In the Privy Council.

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