*Privy Council Appeal No.* 49 of 1922.

*Bengal Appeals Nos.* 2 *and* 3 *of* 1922.

**Shiba Prashad Singh** - - - - - - *Appellant*

*v.*

**Rani Prayag Kumari Debi and others** - - - - *Respondents*

**Same** - - - - - - - - - *Appellant*

*v.*

**Same** - - - - - - - - - *Respondents*

(*Consolidated Appeals.*)

## 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 OCTOBER, 1922.

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*Present at the Hearing :*

LORD BUCKMASTER.
SIR JOHN EDGE.
SIR LAWRENCE JENKINS.
LORD SALVESEN.

[*Delivered by* LORD BUCKMASTER.]

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Their Lordships will humbly advise His Majesty that the order of the High Court dated the 9th February, 1922, ought to be varied by ordering (1) that execution against the appellant of the decree of the Court of the Subordinate Judge at Alipur, dated the 3rd November, 1921, ought to be stayed pending the hearing of the appeal therefrom, on the terms that the appellant complies with Clauses 1, 2 and 3 of the Order dated the 9th February, 1922, provided, however, that the time for making the deposit referred to in Clause 1 thereof, and the time for the furnishing of security mentioned in Clause 3 thereof ought to

be four and six weeks respectively from the date on which His Majesty's Order in Council on this appeal is lodged in the High Court, and (2) that paragraph 5 of that order ought to be set aside, and that in lieu thereof it ought to be ordered that the injunction already issued be maintained so as to restrain the appellant from making alienations of or dealing or otherwise interfering with the corpus of the estate or entering into agreements to grant leases, except with the express sanction of the High Court previously obtained after due notice to the respondents, but that such injunction ought not to prevent the appellant without such sanction from (*a*) granting a simple mortgage or simple mortgages of his interest in the estate, such mortgage or mortgages being subject to the provisions of the Transfer of Property Act, 1882, Section 52, the appellant undertaking not to confer possession upon the mortgagee or mortgagees, and (*b*) entering into agreements to grant leases to take effect after the final determination in the present litigation of the title to the property, the appellant being at liberty, on the basis of such agreements, to obtain *salamis* from the persons who enter into such agreements at their own risk, he undertaking not to confer possession upon such persons. Liberty ought to be reserved to the parties to apply to His Majesty in Council with reference to the payment of the costs of this appeal after the determination of the appeal now pending in the High Court.

In the Privy Council.

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SHIBA PRASHAD SINGH

*v.*

RANI PRAYAG KUMARI DEBI AND OTHERS.

SAME

*v.*

SAME.

(*Consolidated Appeals.*)

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DELIVERED BY LORD BUCKMASTER.

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