

(1928) 10 PRI CK 0006

In the Privy Council

Case No : Privy Council Appeal No. 5 of 1927

Bal Kishen and others

APPELLANT

Vs

Ram Charan and another

RESPONDENT

Date of Decision : 26-10-1928

Acts Referred:

Citation : (1929) AIR(PC) 296

Hon'ble Judges : Lancelot Sanderson, Atkin, Phillimore, JJ.

Advocate : Douglas Grant and Dold, T.L. Wilson and Co., Abdul Majid, W. Wallach, for the Appearing Parties.

Judgement

Lord Phillimore

This appeal arises in a suit by Rani Dulhin, since deceased, attacking two transfers of property, one purporting to be by herself in favour of Chhotey Lal, and one by Chhotey Lal in favour of Raghunath Das. The burden is on the plaintiff of establishing both attacks. The main one for her was the attack on the first conveyance, because if the first conveyance was good she at any rate had no title and it was no concern of hers whether the second was good or bad. If, on the other hand, the first conveyance was bad and Chhotey Lal got no title, it is not now contended that he was able in the circumstances to pass a good title to Raghunath Das. Therefore their Lordships have only to look into the circumstances of the second transaction as affording assistance in examining the truthfulness of the two stories as to the first transaction. As they have already observed, the burden was upon the plaintiff Rani Dulhin. Their Lordships have been quite sensible of that throughout the case and they are also aware that the Judge of first instance found in favour of the defendants. The Judges in the High Court had, however, an additional advantage, because they had a witness who produced certain account books, and certainly as far as they go they make in favour of the case of Rani Dulhin and her present representative. At any rate, after listening to the very careful argument of Mr. Wallach and giving all weight to the first judgment, their Lordships find that the reasons of the Judges in the

High Court are more convincing ; and they see no reason for disturbing their conclusion. Therefore they will humbly advise His Majesty that this appeal be dismissed with costs.