

(1919) 11 PRI CK 0001

In the Privy Council

Ganpat

APPELLANT

Vs

Lalamiya

RESPONDENT

Date of Decision : 04-11-1919

Acts Referred:

Citation : (1920) AIR(PC) 81(1)

Hon'ble Judges : Lords Shah and Phillimore, John Edge, Ameer Ali and Lawrence Jenkins, JJ.

Judgement

Lord Shah - Their Lordships have not heard any sound reason for recalling the decree of the Court below.

In the judgment of the Appellate Court, dated the 5th September, 1917, there occurs this passage :- "It is admitted before us that in 1898 a sanad conferring proprietary rights after the expiry of thirty years" lease was granted to Mundley and the defendant Bapu jointly." The expiry of the thirty years occurred in the year 1895. Their Lordships further add this sentence :- "We have also before us the Revenue Records showing that such a sanad was issued." In these circumstances it follows that the right of property, vested in Mundley and the defendant Bapu, rests for its origin of title upon the sanad granted in 1898.

It has been stoutly argued before their Lordships that the sanad was not produced, and a certain citation was made of Order 41, Rule 27, applicable to the introduction of fresh documentary evidence in an Appeal Court. In the opinion of their Lordships such an argument cannot have any application to the procedure which took place in the present case. There was no application made for the introduction of new evidence. What the learned judges very properly did in the Appellate Court was to take stock of an admission made before them which was cardinal to the matter under discussion. No suggestion or attempt has been made in the candid argument before the Board to recall that admission. It stands.

In the result accordingly, the situation simply is this :- That a person holding a full proprietary interest under a grant of a sanad from the Government has been

dispossessed of that property and the present suit is for the purpose simply of repossession into that property so granted. There is nothing more in the case, in the view of their Lordships, than that simple point, and their Lordships see no occasion to enter into any of the other matters discussed in the careful judgments before them.

They affirm the judgment of the Court below, and will humbly advise His Majesty in that sense; the judgment to be affirmed with costs of the appeal.