

(1889) 11 PRI CK 0005

In the Privy Council

Gobind Lal Roy

APPELLANT

Vs

Hemendra Narain Roy Chowdhry

RESPONDENT

Date of Decision : 19-11-1889

Acts Referred:

Citation : (1889) 11 PRI CK 0005

Hon'ble Judges : Macnaghten, B. Peacock, R. Couch, JJ.

Judgement

B. Peacock, J. 1. Their Lordships are of opinion that the decision of the High Court was correct. Each case must be determined on its own circumstances, and each document must be construed according to the words which are contained in it. Their Lordships are of opinion that the High Court put a proper construction upon the document. In their judgment they say: -" There is nothing in that lease which would go to show that it was the intention of the grantor to limit it to a shorter period." That is quite in accordance with the decision in *Tej Chund Bahadoor v. Srikanth Ghose* 3 Moore's I.A. 261 at p. 272 which was cited by Mr. Mayne in the course of the argument. Then on the same page of their judgment the High Court say: "In this case it seems to us that the reference to the sons was made in order to indicate that the ijara was not to come to an end on the death of Hara Sunderi. Even if these words were not used the lease, under its terms, would have descended to the heirs of Hara Sunderi; but it was probably thought necessary to make that point clear; and in order to make it clear the last condition, that the ijara should continue to the benefit of the son or sons of Hara Sunderi, was inserted." Their Lordships are of opinion that the ijara was to Hara Sunderi and her heirs, and that is the proper construction to be put upon the lease. In this case the widow had no daughters, and it is stated that the only issue was the son who was named. Their Lordships think that the High Court have put the proper construction upon the document, and they will therefore humbly advise Her Majesty that the decision of the High Court be affirmed. The appellant must pay the costs of the appeal.