

(1888) 07 PRI CK 0002

In the Privy Council

Haidar Ali and Another

APPELLANT

Vs

Tassadduk Rasul and others

RESPONDENT

Date of Decision : 21-07-1888

Acts Referred:

Citation : (1889) 16 ILRPC 185 : (1888) 15 IndApp 209

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

Judgement

Hobhouse, J. 1. Their Lordships think it is quite impossible for them to make an order upon these materials for altering the record. They have not got the facts before them, and it is very inconvenient that those facts should be tried here. There ought to be some finding of the Court below. The usual course is as laid down in Mr. Macpherson's book. He says (page 241): "Of course in such cases the proper evidence must be given of the representative character of the persons by or against whom the revivor is sought. The title is more generally established upon petition to the Court below, which thereupon makes any inquiries which it may deem necessary, and orders the petition and proofs to be transmitted to England for such order as the Judicial Committee of the Privy Council may think fit to make." 2. The Court gives its own opinion as to who are the parties proper to be substituted upon the record. It has been the practice, so far as their Lordships can recollect, for a great number of years; and they now must request the Judicial Commissioner to follow that which is the ordinary practice and to make a certificate or statement on which their Lordships can act.