

(1889) 07 PRI CK 0006

In the Privy Council

Haidar Ali Khan

APPELLANT

Vs

Nawab Ali Khan

RESPONDENT

Date of Decision : 18-07-1889

Acts Referred:

Citation : (1890) 17 ILRPC 311 : (1889) 16 IndApp 183

Hon'ble Judges : Watson, Barnes Peacock, Richard Couch, JJ.

Judgement

Barnes Peacock, J. 1. Their Lordships are of opinion that the decree of the Judicial Commissioner ought to be affirmed. 2. There is nothing in this case to show that the Defendant by any agreement, or by any arrangement, or other means, became clothed with any trust as regards the lands included in the sanad. The case, therefore, does not fall within the decisions of Mussto Thukrain Sookraj Koer v. The Government 14 Moore's Ind. Ap. 112 or of Hurdeo Buksh v. Jowahir Singh Law Rep. 6 Ind. Ap. 161. The Defendant is, therefore, entitled as proprietor to the lands included in the sanad. 3. A question has been raised with regard to the lands included in Schedule 0. As to those the Plaintiff has claimed a proprietary right. If he had claimed a sub-proprietary right the Defendant might have given evidence to show that he was not entitled to any such right. Their Lordships, however, think that in affirming the decree it ought to be without prejudice to any claim which the Plaintiff may have to under-proprietary rights in respect of the property included in Schedule 0. 4. Their Lordships will humbly advise Her Majesty to this effect, and that the appeal should be dismissed. 5. The Appellant must pay the costs of it.