

(1920) 02 PRI CK 0009

In the Privy Council

(Rajkumar Babu) Bishun Prakash Narayan Singh

APPELLANT

Vs

Maharani Janki Koer and others

RESPONDENT

Date of Decision : 13-02-1920

Acts Referred:

Citation : (1920) AIR(PC) 34

Hon'ble Judges : Ameer Ali, John Edge, Lord Moulton, Viscount Cave, JJ.

Advocate : Atkin, Sanderson, Hunter, Watkins, E.W. Eddis, A.M. Dunne, DeGruyther, B. Dube, Eddi, Lee, E. Richards, for the Appearing Parties.

Judgement

Viscount Cave, J.

Their Lordships think it unnecessary to call on Counsel for the respondents in this case as the appellant is faced from the beginning with a difficulty which he has not been able to surmount.

The claim of the appellant to the Bettiah Raj is founded upon the view that his branch of the family was joint with the family of the late Raja, and accordingly became entitled, upon the death of the last Raja without male issue, to succeed by the rule of coparcenary to the estate. If it had been necessary for their Lordships to go into the facts, they would have had to consider how far this case is covered by the authority of the decision in *Ram Nunden Singh v. Janki Koer*. 1902 29 Cal., 828 = 29 I.A., 178 = 4 Bom. L.R., 664 = 7 C.W.N., 57 = 8 Sar. 351 (P.C.). But the appellant does not get so far. It is admitted that the Bettiah Raj is impartible; and it was decided in two cases before this Board, namely, in the case of *Sartaj Kuari v. Deoraj Kuari*. 1888 10 All., 272 = 15 I.A., 51 = 12 Jur., 213 = 5 Sar., 139 (P.C.), and again in the case of *Gangadhar Rama Rao v. Raja of Pittapur*. A. I. R., 1918 P. C. 81 41 = Mad., 778 = 47 I.C., 354 = 45 I.A., 148 (P.C.), that an impartible zemindari is the creature of custom, and it is of its essence that coparcenary in it does not exist. It follows from those decisions that, even on the appellant's view of the facts, he cannot succeed in this appeal.

For these reasons their Lordships will humbly advise His Majesty that this appeal

be dismissed and with costs.