

**(1922) 11 AHC CK 0072**  
**In the Allahabad High Court**

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| Sheikh Muhammad Shakur and Others | APPELLANT  |
| Vs                                |            |
| Sheikh Abdul Ghani and Another    | RESPONDENT |

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**Date of Decision :** 02-11-1922

**Acts Referred:**

**Citation :** AIR 1923 All 362 : 71 Ind. Cas. 369

**Hon'ble Judges :** Stuart, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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### **Judgement**

Stuart, J.—The learned Counsel for the appellants has taken me very carefully through the whole facts of the case, but he has not been able to satisfy me that the appeal can succeed in face of the findings of fact. He took exception, in the first place, to what he suggested was an improper admission of evidence by the lower Appellate Court. The learned District Judge wrote: "One thing was wanting in the lower Court which, to some extent, is responsible for the lower Court's judgment, i.e., khasra showing corresponding plots. As it was a matter of Revenue Records I have accepted it now and accept the contention that the plots in question really appertained to the old khewat No. 16."

2. The learned Counsel would argue from these words that the learned District Judge had admitted improperly in evidence, in appeal, documents which had been rejected by the Trial Court. He has not, however, been able to point out to me that the learned District Judge admitted any document in evidence which the Trial Court had rejected, and in so far as the admissibility of the khasras go, they would all be admissible in themselves as certified copies of public documents. With regard to the conclusion drawn by the learned District Judge from the Revenue papers it is necessary to distinguish carefully between, to what extent his conclusions are conclusions of fact and to what extent they are conclusions of law. The distinction as to how far a decision upon the contents of a document is a question of fact and how far it is a question of law, has never perhaps been more happily expressed than by Lindley, L.J. in *Chatenay v. Brazilian Submarine*

Telegraph Co., Ltd. (1891) 1 Q.B. 79 at p. 85 : 60 L.J.Q.B. 295 : 63 L.T. 739 : 39 W.R. 65: "The expression "construction", as applied to a document, at all events as used by English lawyers, includes two things: First, the meaning of the words; and, secondly, their legal effect, or the effect which is to be given to them. The meaning of the words I take to be a question of fact in all cases, whether we are dealing with a poem or a legal document. The effect of the words is a question of law."

3. What has the learned District Judge done here? He has read entries in many revenue papers and he has simply decided to what extent these entries indicate the plaintiffs' possession of certain plots. He has in no way interpreted these entries to indicate any legal point, so his decision interpreting these documents is a decision of fact and not of law. The learned Counsel has assailed the reasoning of the learned District Judge but he cannot possibly attack a finding of fact on the ground that the reasoning is on his argument weak or inconclusive. It is only necessary to refer to the well-known decision of their Lordships of the Privy Council in *Durga Chowdhry v. Jewahir Singh Chowdhry* 17 I.A. 122 at p. 127 : 18 C. 23 : 5 S. P.C.J. 560 : 9 Ind. Dec. 16 : "It is enough in the present case to say that an erroneous finding of fact is a different thing from an error or defect in procedure and that there is no jurisdiction to entertain a second appeal on the ground of an erroneous finding of fact, however gross or inexcusable the error may seem to be. Where there is no error or defect in the procedure the finding of the first Appellate Court upon a question of fact is final, if that Court had before it evidence proper for its consideration in support of the finding" Here there was no error or defect in the procedure. The evidence was before the higher Appellate Court and the lower Appellate Court had sufficient evidence to support its finding. For the above reasons I dismiss this appeal with costs which will include fees on the higher scale.