

(1929) 10 PRI CK 0004

In the Privy Council

Case No : Privy Council Appeal No. 18 of 1928

Siddik Mahomed Shah

APPELLANT

Vs

Saran and others

RESPONDENT

Date of Decision : 25-10-1929

Acts Referred:

Citation : (1930) AIR(PC) 57

Hon'ble Judges : Binod Mitter, George Lowndes, Tomlin, Lords Darling, Viscount Dunedin, JJ.

Advocate : T.L. Wilson and Co., J.M. Parikh, for the Appearing Parties.

Judgement

Viscount Dunedin, J.

This is a hopeless appeal. A certain Hote Khan is alleged by the appellant, who is in possession of certain lands which belonged to Hote Khan to have given these lands to him. That story is not accepted, and there are concurrent findings as to the fact by both Courts. After Hote Khan's death there was a transference of the lands in question by mutation of names effected upon the application of Hote Khan's widow. The Judicial Commissioners think it very probable that Hote Khan's widow being an ignorant person and with no one to help her, transferred the lands in that way in order that her spiritual adviser might hold them as trustee. The spiritual adviser, who is the appellant wishes to keep them first upon the ground already specified which their Lordships have already disposed of and, secondly upon the ground that it was a gift made by the widow herself but that claim was never made in the defence presented and the learned Judicial Commissioners therefore, very truly find that no amount of evidence can be looked into upon a plea which was never put forward. The result is that their Lordships will humbly advise His Majesty that the appeal should be dismissed. As the respondents have not appeared, there will be no order as to costs.