

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Rajah Sutteeschunder Roy v. Musst. Samasoondry Debia and others, from the late Sudder Dewanny Adawlut of Calcutta; delivered 23rd July, 1864.*

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Present :

LORD KINGSDOWN.

SIR EDWARD RYAN.

SIR JOHN TAYLOR COLERIDGE.

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SIR LAWRENCE PEEL.

SIR JAMES W. COLVILLE.

THEIR Lordships have looked through the Printed Papers in this case, and also through the MS. documents handed in by the Appellant for the purpose of showing how the Government Securities for 60,000 rupees deposited in Court, and at the time bearing 5 per cent interest, had been converted into Government notes bearing only 4 per cent. interest. That examination shows that the statement in some of the papers that the 60,000 rupees were originally invested in a single note is mistaken. It appears that they were invested in notes of different amounts; and with respect to the notes for 42,000 rupees, the subject of the present Appeal, that they were paid off at different times in the years 1833 and 1837, in pursuance of notices given by the Government Agent to the Registrar of the Court of Sudder Adawlut, and were converted into Government paper bearing only 4 per cent. interest.

This had been done before the division of the notes amongst the parties entitled to the income, and though the delivery out of the notes to the

claimants seems to have been irregular, it did not affect the conversion of the 5 per cent. securities into 4 per cent. securities, which was the act not of the parties but of the Government and of the Court.

Now that conversion having reduced the 3,000 rupees which the annuitants were entitled to receive by one-fifth, the Appellant under his engagement became liable to make it good; and in this suit he has been charged with the amount found due in that respect upon 42,000 rupees, which seems to have been the only sum on which the Court considered that actual proof had been given of the conversion of the notes. This order does no injustice to the Appellant. We cannot, therefore, advise Her Majesty to reverse the Judgment complained of. We think it should be affirmed, without prejudice to any proceedings which the Appellant may take for the purpose of compelling the holders of the notes for the full sum of 60,000 rupees to bring them back into Court. The effect, however, of this may possibly be that the Appellant may be found liable to a loss in respect of the conversion of the other notes beyond the 42,000 rupees.

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