Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Poorun Singh and others v. *The Government of India, from the High Court of Judicature, North-Western Provinces, Allahabad; delivered Wednesday, March* 10*th*, 1875.

Present:
SIR JAMES W. COLVILE.
SIR BARNES PEACOCK.
SIR MONTAGUE E. SMITH.

THIS suit was brought by the Plaintiffs to have it declared that they are possessed of, and absolutely entitled to, the full proprietary rights in Mouzah Dharaotee Pergunnah Koonch, Zillah Jaloun. There is no dispute in this case as to the facts, and it appears that the Plaintiffs who are now the Appellants were originally the proprietors of the Mouzah. They had acquired it by purchase at a sale for arrears of revenue. The revenue assessment was admittedly very high, and the Plaintiffs being unable to pay that revenue parted with their estate. Subsequently, in consequence of two sales for arrears of revenue, the proprietary rights became vested in Government by reason of their purchase at the last sale for arrears of revenue. The question then is, whether the Government has ever parted with those proprietary rights to the Plaintiffs, entitling them to maintain the suit to have it declared that they are now entitled to the proprietary rights in the estate? It is contended that the proprietary

rights were parted with by the Government, and substantially re-granted to the Plaintiffs by the revenue settlement which was entered into with them in the year 1860. At that time there was a 30 years settlement of the pergunnah which would expire in the year 1871, but the revenue assessed upon the different estates in the pergunnah were so high that it was determined they should be revised and lowered in those cases in which it should be found necessary. The officer who was first appointed to consider the amount of assessments was told that his primary duty was merely a fiscal one; that he had no judicial power to exercise, and consequently it is clear that he had no power to convey away the proprietary rights of the Government.

It is contended that two letters, one of the 30th April 1860, which is set out at page 2 of the Supplementary Record, and the other of the 14th June 1860, which is set out at page 34 of the Original Record, amount to a sanction on the part of the Government to the re-grant to the Plaintiffs of their proprietary rights. The Commissioner in his judgment, at page 50, has commented upon these letters. He says:—

" The first plea I pronounce untenable. In it " the Appellants, though necessarily acknow- " ledging the absolute property of Govern- " ment in the village in suit at the time of the " revision of settlement, assert or apparently " intend to assert that Government by its letters " No. 359, dated 30th April 1860, and No. 615, " dated 14th June 1860, sanctioned the settle- " ment with them as proprietors. This was " clearly not the case. After a careful perusal " of these letters I am unable to perceive a " single sentence or portion of a sentence which " supports the plea. The letters are clear and " simple. There is no possibility of misunder- " standing their drift and meaning. The first,

" No. 359, sanctions the proposed reduction of " jumma in Pergunnah Koonch, and does " nothing more. The second, No. 615, merely " sanctions the reduced jummas in the other " pergunnahs of Jaloun district." Their Lordships, having carefully considered those letters, entirely concur with the Commissioner in the view which he has taken of them. The Commissioner decided against the Plaintiff who appealed to the High Court. The only ground of appeal is this, namely,—" The decision of the " Lower Court is bad, because it is clear that " even if Government did not in so many words " hand over the property to Appellants, yet " it clearly and distinctly sanctioned the acts of " its officers who did so, and who, not once but " in many instances, deliberately and distinctly " recognized the Appellants as absolute pro- " prietors of the property in dispute." The learned judges of the High Court went fully into the matter and have given their reasons in detail. Their Lordships concur in those reasons, and consider that the High Court was right in confirming the view which had been taken of the case by the Commissioner.

Under these circumstances their Lordships will humbly recommend Her Majesty that the Decree of the High Court be affirmed, and that this Appeal be dismissed, with costs.

The High Court have made some remarks with regard to the hardships of the case. Their Lordships have no power to deal with them, but certainly it does appear rather hard that after the Plaintiff had had the settlement made with him an alteration should be made at the expiration of that settlement, and that the recommendation of the Commissioner should be carried out, namely, to settle half with Ram Dyal, and to sell the other half of the estate.

Mr. Cowie. Those observations, my Lords, will be conveyed to the Government.

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