

*Judgement of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
Babu Tiluckdhari Singh and others v.
Chulhan Mahton, from the High Court of
Judicature at Fort William, in Bengal;
delivered April 10th, 1889.*

Present :

LORD HOBHOUSE.

LORD MACNAGHTEN.

SIR RICHARD COUCH.

[*Delivered by Lord Macnaghten.*]

THEIR Lordships are of opinion that this Appeal ought to be dismissed. The first question seems to be this: are these payments, over and above rent, properly so called, abwabs within the meaning of the word as used in Regulation VIII. of 1793? They are described in the plaint as "old usual abwabs"; and they are also described as abwabs in the zemindary accounts. It appears to their Lordships that the High Court was perfectly right in treating them as abwabs, and not as part of the rent. Unquestionably they have been paid for a long period—how long does not appear. They are said to have been paid according to long standing custom. Whether that means that they were payable at the time of the permanent settlement or not is not plain. If they were payable at the time of the permanent settlement they ought to have been consolidated with the rent under section 54 of Regulation VIII. of 1793. Not being so consolidated they cannot now be recovered under section 61 of that regulation. If they were not payable at the time of the permanent settlement they would come under the

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description of new abwabs in section 55; and they would be in that case illegal.

Under these circumstances it appears to their Lordships that the High Court was right in treating them as payments or cesses which could not be recovered.

Their Lordships will therefore humbly advise Her Majesty to dismiss the Appeal.