Privy Council Appeal No. 126 *of* 1921.

Oudh Appeal No. 27 *of* 1919.

Mirza Abid Husain Khan (substituted for Mirza Sadiq Husain) and another) - - - - - - - *Appellants*

v.

Ahmad Husain and others - - - - - - - *Respondents*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER OF OUDH.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 6TH MARCH, 1923.

Present at the Hearing :

LORD ATKINSON.
SIR JOHN EDGE.
MR. AMEER ALI.

[*Delivered by* LORD ATKINSON.]

In this case the annuity which is sought to be enforced is only Rs. 125 *per annum*. By no reasonable method of valuation can an annuity of Rs. 125 *per annum* be worth Rs. 10,000. The 110th section of the Code of Civil Procedure, 1908, applies to the value of the annuity which is sought to be recovered, not to the value of the property upon which that annuity of Rs. 125 is charged. Their Lordships think it right to call attention to the fact that the decision in the case which has been referred to, *Radhakrishna Ayyar* v. *Sundaraswamier* (49 I.A., 211), apparently proceeded upon a supposed admission, which admission it now appears was really not made. In that case, too, the rent was Rs. 1,500 odd *per annum*, and there was nothing inconsistent or irrational in holding that the value of that rent was over Rs. 10,000. It was not seven years' purchase, whereas it is impossible that the annuity about which the controversy in this case has arisen can be worth Rs. 10,000. Their Lordships are therefore of opinion that the appeal is incompetent, and they will so humbly advise His Majesty. The appellants will pay the costs of the appeal.

In the Privy Council.

MIRZA ABID HUSAIN KHAN (SUBSTITUTED FOR MIRZA SADIQ HUSAIN) AND ANOTHER

v.

AHMAD HUSAIN AND OTHERS.

DELIVERED BY LORD ATKINSON.

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