

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Maharaj Kedar Nath and others v. Thakur  
Ratan Singh, from the Court of the Judicial  
Commissioner of Oudh; delivered the 7th  
June, 1910.*

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Present at the Hearing :

LORD MACNAGHTEN.

LORD COLLINS.

SIR ARTHUR WILSON.

MR. AMEER ALI.

[*Delivered by Lord Macnaghten.*]

This is an Appeal from the Court of the  
Judicial Commissioner of Oudh.

It seems that before the annexation of Oudh  
two estates, called Bohra and Sherpur, belonged  
to an undivided Hindu family, the members of  
which then were three brothers, Gayadin, Umrao,  
and Ratan. They were born of different mothers.  
Gayadin was much the eldest, and a man of about  
middle age. He was the manager. The other two  
were minors. Umrao was quite young, and Ratan  
at the time was a mere child. After the confiscation  
the Government was minded to restore the family  
property, and a grant of it was either issued or in  
immediate contemplation, when it was discovered  
that Gayadin was in possession of a quantity of  
concealed arms. The property was again con-

fiscated, and Gayadin was put in prison. Then Gayadin or his servants made disclosure of similar offences committed by other landholders, and so induced the Government to look favourably on his case. Ultimately the Government made him a grant of Sherpur, which in value was about equal to one-third of the whole family property.

The question is :—Was Sherpur the self-acquired property of Gayadin, or was it the joint property of the three brothers ?

Now Gayadin himself, when examined with a view to the preparation of the Khewat of Ilaka Sherpur, stated that he and his two brothers were “joint in equal shares,” and the Khewat, which is signed by Gayadin, Umrao, and Ratan (Umrao’s signature being affixed by Ratan), and countersigned by the presiding officer on the 24th September, 1860, gives under the head “Shares of Proprietors,” and “Names of Zemindars,” “Gayadin, Umrao Singh, and Ratan Singh, sons of Bakht Singh, all three in equal shares.” Gayadin never disputed the right and title of his two brothers to a joint share in the property. It would seem, therefore, that it must be inferred that under a family arrangement, which cannot now be questioned, the three brothers became jointly entitled as members of an undivided Hindu family to the Sherpur estate, although the Government grant was to Gayadin alone.

The three brothers continued to live joint until a year or a year and a half before Gayadin’s death, which occurred in January, 1869. In 1867 Umrao quarrelled with Gayadin, left the family home, and brought a suit for partition. Ratan, too, brought a suit for partition, claiming one-third ; but he remained with Gayadin and withdrew his claim. Umrao, on the other hand, continued his suit, making Gayadin’s widow a defendant, and there was a Decree by consent.

giving Umrao one-third of the estate. Ratan made an arrangement with the widow, who had executed a will in his favour, that she was to remain in possession, and that his rights were to be in abeyance during her life. Effect was given to this agreement when Ratan afterwards claimed one-third in a suit which he brought against the widow, alleging that she was wasting the estate.

Gayadin's widow died in 1896. In 1900, Umrao, with the assistance of his co-Plaintiff, a mortgagee, brought forward his claim, asserting that Sherpur was Gayadin's self-acquired property. The Subordinate Judge of Sitapur decided in his favour; but in the Court of the Judicial Commissioner this decision was reversed, and the suit was dismissed. The Judgment was delivered by Mr. Chamier, the Judicial Commissioner. "It appears to me," said the learned Judge, "to be clear that Ratan Singh remained joint with Gayadin till the latter's death, and then became entitled to two-thirds of the property. In my opinion the Plaintiffs have altogether failed to prove that Gayadin died entitled to either two-thirds or one-third of the Sherpur estate as separate property."

Their Lordships agree in that opinion, and they will, therefore, humbly advise His Majesty that the Appeal should be dismissed.

The Appellants will pay the costs of the Appeal.

In the Privy Council.

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**MAHARAJ KEDAR NATH AND**

**OTHERS**

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**THAKUR RATAN SINGH.**

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