

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Meer Mahomed Tuque Chowdry v. Judonath Jha and others, from the High Court of Judicature at Fort William in Bengal; delivered 4th July, 1871.

Present:

SIR JAMES W. COLVILLE.

LORD JUSTICE JAMES.

LORD JUSTICE MELLISH.

SIR LAWRENCE PEEL.

IN this case the Plaintiff brought his suit to recover some land. He was met by a case on the part of the Defendants which alleged that the person from whom he claimed had no power to sell the land claimed, or at least part of it. Therefore it was necessary that the boundaries of the land in dispute should be clearly pointed out. A local investigation was accordingly directed to ascertain those boundaries. The Ameen appointed to conduct the investigation went to the spot. The Plaintiff either failed to appear before him altogether, or if the persons who, after some delay, did appear, were his agents (a fact which he has sometimes disputed) suggested that the boundaries were erroneously stated in the plaint. The result was that no report concerning the boundaries was made to the Court, and the parties again appeared before it. On this second appearance the Plaintiff does not appear to have taken any objection as to the proceedings of the Ameen, and the Court upon that ground, and also upon the ground of his having omitted to give formal proof of his deed of purchase, dismissed the suit. In fact, there was no evidence whatever in support of his claim before the Court, except the production of the unproved Kowala, or bill of sale. He then appealed to the High Court, and his complaint there was not so

much that his suit had been dismissed because he had failed to prove his case, as that the Lower Court had not given him further time, or directed a second local investigation.

The High Court, dealing with this as a pure question of practice, said that he had not given any sufficient excuse for his former laches, and on that ground dismissed the appeal. Then he comes here, taking objections, some of which he never took in the Court below, and asks us to reverse that decision. We cannot see that there are any grounds for doing this ; and their Lordships, therefore, will humbly recommend Her Majesty to dismiss this Appeal with costs.

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