

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
Chunder Coomar Roy and others v. Puddo-
lochun Roy and others, from the High Court
of Judicature at Fort William in Bengal ;
delivered Thursday, June 3rd, 1875.*

Present :

SIR JAMES W. COLVILLE.

SIR BARNES PEACOCK.

SIR MONTAGUE E. SMITH.

SIR ROBERT P. COLLIER.

THIS was a suit brought to recover possession of three lots of land described in the schedule to the plaint ; to set aside the decision of the magistrate in an Act IV. case, and also to amend a survey map with regard to lots Nos. 2 and 3. The Plaintiffs alleged that No. 1 had been included in the survey map as being within the boundary of their estate, and that Nos. 2 and 3 were described in the said map as in the property of the Defendants, and they claimed to recover lot 1 and have the survey map amended as to lots 2 and 3, and to be put into possession of those lots. They also stated that the whole of the lands had been rightfully held possession of by them from time immemorial. An Ameen was sent by the Principal Sudder Ameen, who tried the case in the first instance, to make a local inquiry, and he reported against the Plaintiffs. He considered that the whole of the three lots had in the survey map been included in the boundaries of the estate of the Defendants. The Principal Sudder Ameen upheld the finding of the Ameen, and gave judgment for the Defendants. Upon

appeal, the High Court differed with regard to lot No. 1 from the report of the Ameen, and from the finding and decision of the Principal Sudder Ameen. They considered that lot 1 was included in the map No. 64 as being in the estate of the Plaintiffs, and they stated,—“ On “ this point, therefore, we should be obliged “ to reverse the judgment of the Principal “ Sudder Ameen, if we did not agree with him “ in the second point, viz., as to the title of “ the Plaintiffs to hold any portion of Beel “ Bhagheea.” There were two questions,—first, whether lot No. 1 was in the survey map included within the Plaintiffs’ boundaries, and in the next place whether the Plaintiffs had proved that they were entitled to that lot. The High Court held that lot 1 was in the survey map included in the Plaintiffs’ estate ; but they held, agreeing with the Ameen and the Principal Sudder Ameen, that the Plaintiffs had not proved that they had been in possession of that lot within 12 years previously to the commencement of the suit, and therefore they dismissed the suit with regard to that lot. No evidence has been pointed out to their Lordships to show that the High Court and the Principal Sudder Ameen were wrong with regard to the evidence of possession. The only evidence that has been pointed out to us in support of the Plaintiff’s allegation that he had been in possession of lot No. 1 from time immemorial is the survey map which the High Court held to have included the lot within the boundaries of the estate of the Plaintiffs, and the evidence of Sreenath, who was one of the Defendants ; but their Lordships are of opinion that that evidence is not sufficient to induce them to reverse the findings of the Ameen, of the Principal Sudder Ameen, and of the High Court, respectively, who all of them held that there was

no evidence to satisfy them that the Plaintiff had been in possession of lot No. 1 within 12 years before the commencement of the suit.

The Appeal was given up as to lots 2 and 3.

Their Lordships will humbly recommend Her Majesty that the decision of the High Court be affirmed, and that this Appeal be dismissed.

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