

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Omrao Begum and another v. the Government of India and another from the High Court of Judicature, at Fort William, in Bengal; delivered November 28th, 1882.*

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Present :

LORD FITZGERALD.

SIR BARNES PEACOCK.

SIR ROBERT P. COLLIER.

SIR RICHARD COUCH.

SIR ARTHUR HOBHOUSE.

THIS was an action brought by Omrao Begum and Zohura Begum, daughters of the late Syed Mehdi Ali Khan, against the Government of India and the second Defendant, who is called for shortness Amir Saheb, for the recovery of certain arrears of an allowance, or, in lieu thereof, possession of certain immovable property. There is also a claim that the allowance may be charged upon this property, and that if it be not paid the property be sold for the purpose of payment.

The facts necessary to the decision of this case may be shortly stated. Mehdi Ali Khan was a half-brother of Amirunnissa, who was the widow of the grand-uncle and predecessor of the present Nawab Nazim of Bengal. A certain estate of Gopinathpore had been purchased by her, benami in the name of Mehdi Ali, but really for herself. Upon her death the Nawab Nazim claimed, by a custom of the family, all her property. Mehdi Ali, the father of the Plaintiffs, raised some question upon this subject, and made some claim to the property himself. But he withdrew his claim upon an agreement which is to be found

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in a perwannah, not before their Lordships, to the effect that he was to receive Rs. 600 per month, and in consideration thereof to forego any claim he might have, and not to molest the Nawab Nazim for the future. It seems that, notwithstanding the agreement, he took possession of the property, whereupon the Nawab Nazim was put to a suit which finally came before this Board, and in which this Board decided that he was entitled to recover possession of the property in dispute, mainly upon the strength of the agreement, which agreement prevented the Defendant from disputing his title. In the Courts of India a suit was brought by the Appellants against the Nawab Nazim, to recover, amongst other things, the arrears of the allowance granted to Mehdi Ali Khan; and a judgment for some Rs. 18,000 was obtained in December 1873, about a month after the passing of the Act called the Nawab Nazim's Debts Act, on which the question in the present case turns.

The Government of India plead, among other things, that the suit could not proceed because the Nawab Nazim was not made a party to it. Whether they are right or wrong in that contention depends upon the construction of the Act which has been referred to—an Act to provide for the liquidation of the debts of the Nawab Nazim of Bengal, and for his protection against legal process. The object of this Act was, as stated in the preamble, to put a stop to various suits, to ascertain what property with respect to which there had been some disputes was or was not held by the Government of India for the purpose of upholding the dignity of the Nawab Nazim, and for the purpose of exempting him for the future from being sued in the Courts. This Act appointed certain Commissioners for the purpose of determining what claims or debts were enforceable against the Nawab Nazim, and

how much it was equitable to pay in respect of them, and gave them this jurisdiction without their being bound by any previous agreement or judicial proceeding; and then it proceeded, by section 12, to enact thus:—"The Commissioners shall ascertain what jewels and immovable property are held by the Government of India for the purpose of upholding the dignity of the Nawab Nazim for the time being, and shall certify the particulars of such jewels and property; and their finding thereon shall be binding and conclusive on all persons whomsoever."

The contention on the part of the Appellants has been that, the Nawab Nazim having, as it is admitted, executed a conveyance of this property of Gopinathpore to the second Defendant, his son, in the year 1859, it was not what may be called Nizamut property, and that the Commissioners had no jurisdiction to deal with it or to declare it to be Nizamut property. But it has been very properly admitted on the part of Mr. Doyne that if they had such jurisdiction, and if they rightly declared it to be Nizamut property, then the suit cannot proceed.

Their Lordships are of opinion that the power of the Commissioners under section 12 is by no means controlled, as it has been contended, by any words in the preamble, but must be construed according to the plain meaning of the language; and that language is that the Commissioners are to ascertain "what jewels and immovable property are held by the Government of India for the purpose of upholding the dignity of the Nawab Nazim." Whether this property had been conveyed to the son; whether the conveyance was valid; whether it was voluntary; whether it was collusive; or whether it was revocable—all these were questions which would come under the jurisdiction of the Commissioners to decide; and they

have held that this property was immovable property held by the Government for the purpose of upholding the dignity of the Nawab. Their Lordships have no doubt that that was within the jurisdiction of the Commissioners; and if so, as has been very properly admitted, the suit cannot proceed, and the judgment of the High Court was right.

Under these circumstances their Lordships will humbly advise Her Majesty to affirm that judgment; and this Appeal will be dismissed with costs.