Judgment of the Lords of the Judicial Committee of the Privy Council on the four Consolidated Appeals of Rani Hemanta Kumari Debi v. *Maharaja Jagadindra Nath Roy Bahadur* (*Appeals Nos.* 18 *and* 20 *of* 1890), *and Hem Chunder Chowdhry* v. *Maharaja Jagadindra Nath Roy Bahadur* (*Appeals Nos.* 19 *and* 21 *of* 1890), *from the High Court of Judicature at Fort William in Bengal; delivered* 12*th June*, 1894.

Present:

LORD HOBHOUSE.
LORD MACNAGHTEN.
LORD MORRIS.
SIR RICHARD COUCH.

[*Delivered by Lord Macnaghten.*]

THE Appellants are the zemindars of a ten anna and a four anna share in the zemindary property called Pakhuria Jainshai, in the District of Mymensingh. The Respondent is talookdar of a talook called Balasuti, forming part of that zemindary. The object of the four suits, which were brought by the predecessor in title of Rani Hemanta Kumari Debi and by Hem Chunder Chowdhry against the Respondent, was to obtain from him enhanced rents in respect of that talook. The main question to be decided in these appeals is whether the Courts below were right in holding that the Appellants were precluded by a Decree of the Sudder Dewani Adawlut from demanding a larger rent from the Respondent than Rs. 16,369.8.11, or from disputing the independent nature of the Respondent's talook. The Decree of the Sudder Court was pronounced on the 14th August, 1805. By that Decree the Court expressed the opinion that the then Defendant, the predecessor in

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" independent talook within the meaning of " Section 5, Regulation VIII. of 1793, and that " that decision had been acted upon by both " parties for nearly fifty years." In that view their Lordships entirely concur. They are of opinion that there is no foundation whatever for these appeals on the main question of the enhancement of rent.

A subordinate question arose in Appeals Nos. 20 and 21 of 1890 with regard to the interest on the rent in arrear. It appears that there are some arrears which have become due since the Bengal Tenancy Act, 1885. The Subordinate Court held that interest was to be calculated monthly on the arrears; but the High Court held that under the provisions of that Act, as regards arrears which became due after the Act came into force, the interest should be calculated quarterly. It appears to their Lordships that the High Court were wrong, and that the provision in section 67 of the Act, on which they relied, only applies to cases where the rent is payable quarterly. Here it is not disputed that the rent is payable monthly, and on rent in arrear it appears to their Lordships that interest ought to be calculated monthly. This is a matter which has not added at all, or if at all, only to an infinitesimal degree, to the costs of the appeals, and their Lordships think that this variation ought to make no difference as to the costs.

Although by the judgment of the High Court the judgment of the Subordinate Court was varied in the above respect (Rec. pp. 778 and 779), the decrees drawn up by the High Court contain no such variation, but simply dismiss the appeals from the Subordinate Court with costs. The decrees of the High Court are consequently right and should be affirmed. Their Lordships will humbly advise Her Majesty accordingly. The Appellants must pay the costs of these Appeals.