

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
Mussummat Kishmish Koer v. Phul Chand
Lal and Another, from the High Court of
Judicature at Fort William in Bengal;
delivered the 28th July 1904.*

Present :

LORD DAVEY.

LORD ROBERTSON.

SIR ARTHUR WILSON.

[*Delivered by Lord Davey.*]

THEIR Lordships think that in this case there are two concurrent decisions on a question of fact. The question whether there is any special custom, applicable to the class of persons to whom the parties belong, which would exempt them from the operation of the Mitakshara Law with reference to inheritance is a question of fact. Their Lordships understand that both Courts in India have found that fact against the Appellant, for whom Mr. Arathoon appears, and therefore, as that fact lies at the very root of the case, and as Mr. Arathoon admits that, if the Mitakshara Law applies, he has no case, the Appeal fails, and their Lordships must humbly advise His Majesty that it ought to be dismissed. The Appellant will pay the costs of it.

