

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Thakur Rang Lal Singh and another v.  
Maharaja Sir Ravaneshwar Pershad Singh  
Bahadur and others, from the High Court of  
Judicature at Port William in Bengal,  
delivered the 27th July 1911.*

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PRESENT AT THE HEARING :

LORD MACNAGHTEN.

LORD SHAW.

LORD MERSEY.

MR. AMEER ALLI.

[DELIVERED BY MR. AMEER ALLI.]

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This is an Appeal from a Judgment and Decree of the High Court of Bengal which affirmed the Order of the Subordinate Judge of Monghyr dismissing the application of the judgment debtors, Appellants, under Section 311 of the Civil Procedure Code (Act XIV. of 1882) to set aside a sale of certain landed property in execution of a mortgage decree.

The grounds on which the sale was impugned in the first Court were two-fold, (1) that the property sold was a *ghatwali* tenure and therefore inalienable ; and (2) that there was material irregularity in publishing and conducting the sale which resulted in substantial injury to the Appellants.

The first ground appears to have been abandoned in the High Court and is not pressed before this Board. The Appellants now rest their case mainly on the provisions of Sections 287 and 291 of the Code. They urge that on the 16th of May 1903 the sale was postponed

to the 13th of July following and a sale proclamation was directed to issue fixing that date for sale; that it was not sold on the 13th, but on a later date, without a fresh proclamation as required by law, and that consequently the sale is null and void, and ought to be set aside. An examination, however, of the proceedings culminating in the sale, shows that there is no substance in the Appellants' contention. It is clear from the order-sheet that sale-proclamations had issued, at the instance of the Appellants, not less than six times. On the 30th of March 1903 the sale was stayed on their application and a sale-proclamation had issued fixing the 11th of May. On this day the Appellants asked for three days' grace, which was granted, the property being "kept under hammer." It was not, however, put up to sale until the 16th of May, when it was found that there were not sufficient bidders present, and a fresh proclamation was therefore ordered to issue fixing the 13th of July for the sale. In the proclamation it was notified that "in the absence of any order of postponement the sale would be held at the monthly sale, commencing at 6 o'clock in the morning of the 13th of July 1903, at Monghyr."

The presiding officer was, however, absent from Monghyr from the 13th to the 16th of July. On the 17th an application was made to him for a postponement, which was rejected. The property, however, was not sold until the 20th. It is evident that on the 16th of May the sale was postponed to the 13th of July, the day on which the monthly sales were to commence; those sales did not actually begin until the 17th, owing to the absence from the station of the presiding officer, and the sale was held on the 20th in the course of the monthly sales. On the facts appearing on the record their Lordships think the Subordinate Judge did not act in

contravention of the provisions of the Civil Procedure Code in holding the sale on the 20th of July.

Both the Courts in India have found against the Appellants on the question of substantial injury. The evidence regarding the value of the property is meagre and unsatisfactory, and their Lordships are not satisfied that, assuming even there was any irregularity in publishing the sale, any substantial injury has been caused thereby to the Appellants.

On the whole their Lordships are of opinion that the Order of the High Court is right, and that this Appeal should be dismissed with costs. And they will humbly advise His Majesty accordingly.

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In the Privy Council.

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THAKUR RANG LAL SINGH AND  
ANOTHER

v.

MAHARAJA SIR RAVANESHWAR  
PERSHAD SINGH BAHADUR AND  
OTHERS.

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DELIVERED BY MR. AMEER ALI.

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