

*Judgment of the Lords of the Judicial Committee of the Privy Council in the matter of the consolidated Appeals of Sri Raja Venkata Narasimha Appa Row Bahadur Zemindar, since deceased (now represented by Meka Venkataramayya Appa Row Bahadur and another) v. Sri Raja Parthasarathy Appa Row Savai Aswa Row Bahadur Zemindar and another; and of Sri Raja Venkatadri Appa Row Bahadur Zemindar v. Sri Raja Venkata Narasimha Appa Row Bahadur Zemindar, since deceased, and another; and of Sri Raja Venkatadri Appa Row Bahadur Zemindar v. Sri Raja Parthasarathy Appa Row Savai Aswa Row Bahadur Zemindar and another, from the High Court of Judicature at Madras (Privy Council Appeals Nos. 114-16 of 1910); delivered the 24th July 1913.*

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PRESENT AT THE HEARING :

LORD ATKINSON.

LORD PARKER OF WADDINGTON.

SIR SAMUEL GRIFFITH.

SIR JOHN EDGE.

MR. AMEER ALLI.

[DELIVERED BY LORD PARKER OF  
WADDINGTON.]

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The principles to be applied in determining the question which now arises for decision do not, in their Lordships' opinion, admit of any controversy. These principles may be stated as follows:—First, in the absence of a sanad under Regulation XXV. of the Madras Regula-

tions of 1802, those regulations do not affect the title to any land (Collector of Trichinopoli *v. Lekkamani* 1 Ind. App. at p. 306). Secondly, the acceptance of a sanad in common form under Regulation XXV. does not of itself, and apart from other circumstances, avail to alter the succession to an hereditary estate. (*Kachi Kaligana v. Kachi Yava*, 32 Ind. App. at p. 261.) Thirdly, unless there be an existing estate with other incidents which a sanad in common form under Regulation XXV. can operate to confirm, such sanad will confer on or confirm in the grantee an estate descendible according to the ordinary rules of inheritance of the Hindoo law. (*Raja Venkata Narasimha Appa Row v. Raja Narayya Appa Row*, 7 Ind. App. at p. 38). Fourthly, in order to establish that any estate is descendible otherwise than in accordance with the ordinary rules of inheritance of the Hindoo law, it must be proved either that it is from its nature impartible and descendible to a single heir, or that it is so impartible and descendible by virtue of a special family custom. (*Baboo Gunesh Gutt Singh v. Maharaja Mohe-shur Singh*, 6 Moore's Ind. App. at p. 187.) Lastly, the nature of the estate and the existence or otherwise of a special family custom are questions of fact to be determined on the evidence available in each case. (*Srimantu Raja Yarlagadda Mallikarjuna v. Srimantu Raja Yarlagadda Durga*, 17 Ind. App. at p. 134.)

The question now arising for decision is whether the Zemindari of Nidadavole is impartible and descendible to a single heir or partible and descendible according to the ordinary rules of inheritance of the Hindoo law. The Zemindari of Nidadavole was the subject of a sanad in common form under Regulation XXV., and on the principles above stated it must be held to be partible and

descendible according to the ordinary rules of inheritance of the Hindoo law, unless the sanad could operate as the confirmation of a previously existing estate which from its nature or by virtue of some special family custom was impartible and descendible to a single heir. The Appellant contends that the grantee under this sanad had at and prior to the date thereof an estate which was of the nature of a Raj or principality and therefore impartible. He does not rely on any special family custom. At and prior to the sanad the grantee thereunder had no doubt some estate, but whether or not it was an estate in the nature of a Raj is a question of fact to be determined on the evidence. Both Courts below have found that the estate was not in the nature of a Raj, and having regard to the ordinary practice of this Board it would be wrong to advise His Majesty to disturb this finding unless their Lordships are satisfied that it was not justified by the evidence. (*See Allen v. Quebec Warehouse Company*, 12 App. C. 101 at p. 104.) So far from being so satisfied, their Lordships after considering the evidence are not prepared to say that they should not themselves have come to the same conclusion. Some stress was laid on the contrary findings of the Courts in the litigation which culminated in the proceedings before the Board reported 7 Ind. App. 38, but their Lordships observe that in the present case there was evidence of a very material nature which was not available in the earlier litigation.

In their 'Lordships' opinion, therefore, the Judgments of the Courts below cannot on this point be disturbed, and they will humbly advise His Majesty to that effect. They will consider the question of costs when the other points arising on these Appeals have been dealt with.

In the Privy Council.

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SRI RAJAH VENKATA NARASIMHA  
APPA ROW BAHADUR,  
SINCE DECEASED,

vs.

SRI RAJAH PARTHASARATHY APPA  
ROW SAVAI ASWA ROW BAHADUR  
AND CONNECTED APPEALS.

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[DELIVERED BY LORD PARKER OF  
WADDINGTON.]

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