

Privy Council Appeal No. 3 of 1915.

Bengal Appeal No. 34 of 1912.

Rai Bhaiya Dirgaj Deo Bahadur, since deceased
(now represented by Bhaiya Raj Kishore Deo) *Appellant,*

v.

Beni Mahto and others - - - - *Respondents,*

FROM

THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 16TH OCTOBER, 1917.

Present at the Hearing :

LORD PARKER OF WADDINGTON.

LORD WRENBURY.

SIR JOHN EDGE.

MR. AMEER ALI.

[*Delivered by* LORD PARKER OF WADDINGTON.]

In this case the question is as to the nature of the respondents' holding. It is admitted that the document under which their predecessor in title originally held, and which created the holding, is lost, and the only question that their Lordships have to decide is whether another document consisting of a register, as evidence of the contents, was or was not properly admitted. Now clearly this register is an official document, and therefore it is admissible in evidence under Section 35 of the Indian Evidence Act. It may be possible that in the case of such a document, if it could be shown that any particular part was in excess of the official duty by reason of which it came into existence, that part might not be admissible, but no attempt has been made to show this in the present case. The document has been admitted by both Courts below as proper evidence in the case, and their Lordships see no reason to reverse or to vary that decision.

The appeal therefore should, in their Lordships' opinion, be dismissed. The respondents not having appeared, there is no question of costs. Their Lordships will humbly advise His Majesty accordingly.

In the Privy Council.

RAI BHAIIYA DIRGAJ DEO BAHADUR,
SINCE DECEASED (NOW REPRESENTED BY BHAIIYA RAJ KISHORE DEO)

vs.

BENI MAHTO AND OTHERS.

DELIVERED BY
LORD PARKER OF WADDINGTON.