

Privy Council Appeal No. 74 of 1925.

Patna Appeals Nos. 30 and 31 of 1924.

Maharaja Bahadur Kesho Prashad Singh - - - - *Appellant*

v.

Madho Prashad Singh and others - - - - *Respondents*

Same - - - - *Appellant*

v.

Same - - - - *Respondents*
(*Consolidated Appeals*)

FROM

THE HIGH COURT OF JUDICATURE AT PATNA.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 23RD MARCH, 1928.

Present at the Hearing :

LORD SHAW.

LORD CARSON.

LORD ATKIN.

[*Delivered by LORD SHAW.*]

These are consolidated appeals against decrees of the High Court of Judicature at Patna. They refer to the right of property in two villages, Majhwari and Bhatauli.

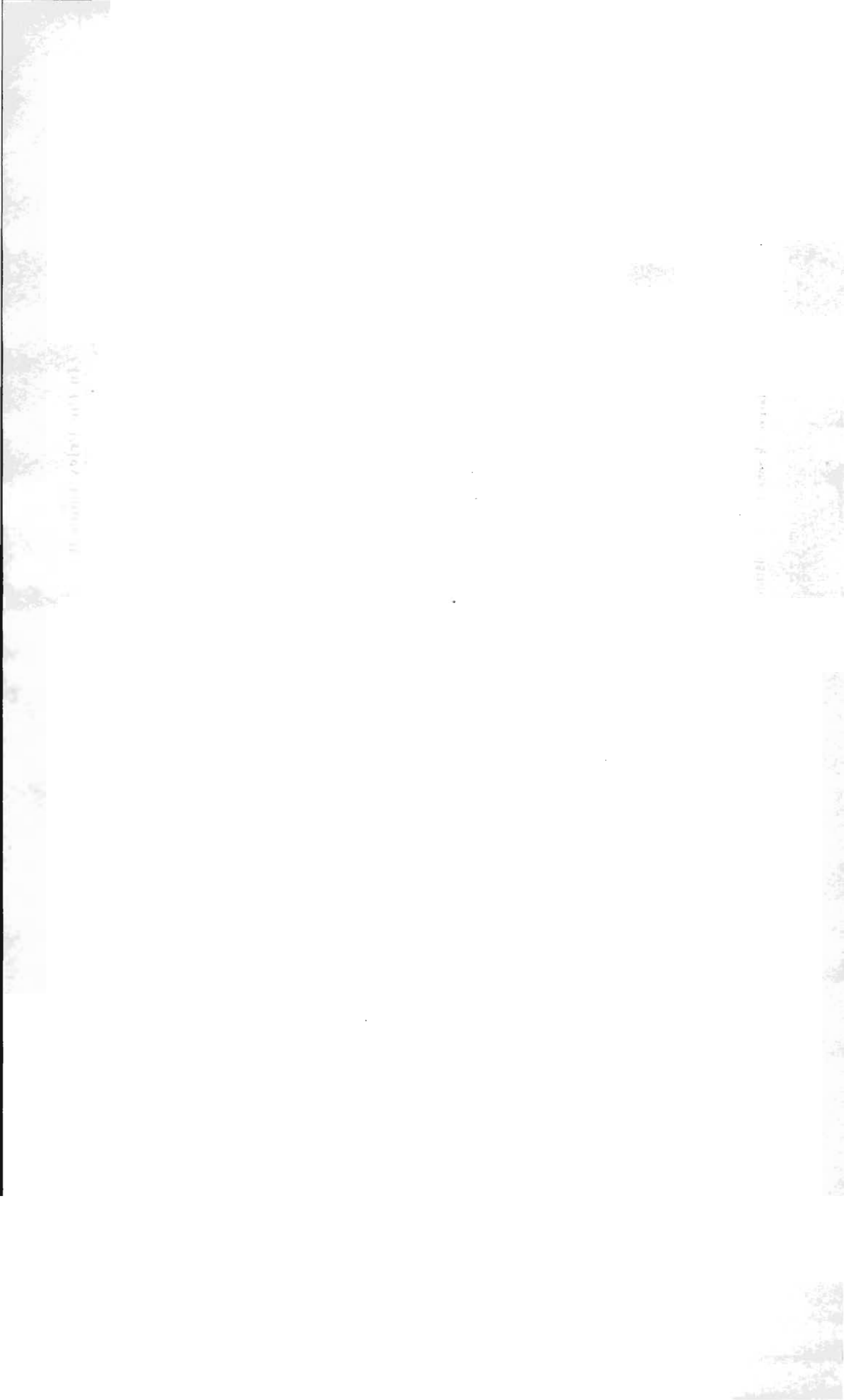
With regard to the possession of those villages, it cannot be controverted, and it has been admitted at the Bar, that both villages have been possessed by the respondents for a long period of time (which may be said to have begun in 1887) until the present day. Any challenge of their title to hold these properties would be excluded by the Limitation Act, it being perfectly clear that

their possession far exceeded the period of limitation of 12 years which would affect this case.

Their Lordships think it unnecessary to go into the details of the possession of either party. They are satisfied, however, that the grounds taken by the Subordinate Judge are the true grounds upon which this case should be decided. They do not feel, as at present advised, concerned with the question, somewhat anxiously discussed, of merger by the High Court. They think these things are irrelevant to the true issue, which is one of adverse possession or no adverse possession.

Upon that subject a convenient date is the date 1887. It turned out that at that time the Maharaja was desirous to resume possession of the estates which were the subject of grant, including the two villages in question. At that juncture a certain widow was in possession, and the allegation was that she was entitled to these two villages by reason either of a gift or some deed of arrangement made by the Maharaja himself. That did not prevent him, however, from taking an action to resume possession. He accordingly obtained his decree, but having obtained his decree, nothing was done with regard to the possession of the villages of the respondents, and it is not denied that the respondents and their predecessors did continue, notwithstanding that decree to possess, as they have done to this day, the two villages in question.

There might be another date from which limitation might run, namely, 1864. More contentious matter might arise with regard to that, but with regard to the 1887 date and the possession from that time, the case is plain and has been clearly and correctly dealt with by the Subordinate Judge. Their Lordships will humbly advise His Majesty to refuse the appeal with costs.



In the Privy Council.

MAHARAJA BAHADUR KESHO PRASHAD SINGH

v.

MADHO PRASHAD SINGH AND OTHERS.

SAME

v.

SAMI:

(*Consolidated Appeals.*)

DELIVERED BY LORD SHAW.

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