

Haveli Shah and another - - - - - *Appellants*

*v.*

Charan Das, since deceased, and others - - - - - *Respondents*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER IN BALUCHISTAN.

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL, DELIVERED THE 31ST JANUARY, 1929.

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*Present at the Hearing :*

LORD SHAW.

LORD ATKIN.

SIR LANCELOT SANDERSON.

[*Delivered by* LORD SHAW.]

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Their Lordships think it unnecessary to call upon counsel for the respondents in this appeal. Nothing that has been urged inclines their Lordships to the view that an erroneous finding was come to in the courts below. It may be noted simply that this is not an ordinary and general action for partnership accounts. It is directed to the inclusion in partnership assets of two particular items. The first of these items has reference to what is called the donkey contracts; that is, contracts in connection with the transport, for war purposes, during or towards the close of the Afghan war. The second item has reference to a large amount originally charged to the partnership as income tax but subsequently refunded or credited thereto—these two items being subsequent in date to the arrangements about to be noted.

Had it been a case of the ordinary accounting kind, accounts would have had to be tabled in the courts below to be fully analysed and would have had to be produced probably under the direction of an accountant nominated by the court, with a statement of the assets and liabilities of the firm with a scheme

of distribution according to the terms of the partnership. The parties, however, in this case, came to the conclusion that such a course was unnecessary because in the year 1923 in a litigation at the instance of Diwan Chand Sibal, the whole situation of the partnership and the distribution of its assets seems to have come before the court. They adopted the result of the accountant's report in 1923, and that being the datum line for the accounts, it is perfectly manifest that the two items which are now sued for, namely, the donkey contract and the income tax item, were subsequent receipts destined as alleged for the assets of the firm which are not included in those accounts.

Now what is the defence to this demand that these items should be now included? It consists in a statement that in the year 1921 the parties met and the entire indebtedness of the appellants was paid and settled. The principal partner had a residence in Dinga, and to that residence the two junior partners went; and it is stated that at that interview receipts were given for money due to the junior partners. The receipts were for round sums—to the one, Rs. 10,000 was given and to the other Rs. 5,000.

The terms of these receipts have been referred to in the judgment. It is true that the receipts are capable of a double construction; they may be complete receipts closing the partnership accounts for ever, or, upon another construction, also justified, they may be receipts for payment in full of the accounts as they stood up to the date of the receipts. Those matters have been under the careful consideration of both of the courts below, and their Lordships do not see their way to differ from the conclusions arrived at. Their Lordships think that the two items were not settled or meant to be settled by those receipts. These two items must be settled for now and the judgments of the court below are correct in all particulars with respect to them.

Their Lordships will accordingly humbly advise His Majesty that the appeal fails, with costs to the respondents.



In the Privy Council.

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HAVELI SHAH AND ANOTHER

v.

CHARAN DAS, SINCE DECEASED, AND  
OTHERS.

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DELIVERED BY LORD SHAW.

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