

Pir Sidik Mahomed Shah - - - - - *Appellant*

v.

Musammat Saran, since deceased, and another - - - - - *Respondents*

FROM

THE COURT OF THE JUDICIAL COMMISSIONER OF SIND.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 25TH OCTOBER, 1929.

Present at the Hearing :

VISCOUNT DUNEDIN.

LORD DARLING.

LORD TOMLIN.

SIR GEORGE LOWNDES.

SIR BINOD MITTER.

[*Delivered by* VISCOUNT DUNEDIN.]

This is a hopeless appeal.

A certain Hote Khan is alleged by the appellant, who is in possession of certain lands which belonged to Hote Khan, to have given these lands to him. That story is not accepted, and there are concurrent findings as to the fact by both Courts. After Hote Khan's death there was a transference of the lands in question by mutation of names effected upon the application of Hote Khan's widow. The Judicial Commissioners think it very probable that Hote Khan's widow, being an ignorant person and with no one to help her, transferred the lands in that way in order that her spiritual adviser might hold them as trustee. The spiritual adviser, who is the appellant, wishes to keep them, first, upon the ground already specified, which their Lordships have already disposed of, and, secondly, upon the ground that

it was a gift made by the widow herself ; but that claim was never made in the defence presented, and the learned Judicial Commissioners, therefore, very truly find that no amount of evidence can be looked into upon a plea which was never put forward.

The result is that their Lordships will humbly advise His Majesty that the appeal should be dismissed. As the respondents have not appeared, there will be no order as to costs.

In the Privy Council

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In the Privy Council.

PIR SIDIK MAHOMED SHAH

v.

MUSAMMAT SARAN, SINCE DECEASED,
AND ANOTHER.

DELIVERED BY VISCOUNT DUNEDIN.

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