

*Privy Council Appeal No. 59 of 1947*

*Oudh Appeal No. 9 of 1946*

**Pandit Chandra Kishore Tewari and others - - - - Appellants**

v.

**Deputy Commissioner of Lucknow in charge Court of Wards**

**Sissendi Estate and another - - - - Respondents**

FROM

**THE CHIEF COURT OF OUDH**

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL (PART 2), DELIVERED THE  
1ST FEBRUARY, 1949

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*Present at the further Hearing:*

LORD DU PARCQ

LORD MORTON OF HENRYTON

SIR MADHAVAN NAIR

[*Delivered by* SIR MADHAVAN NAIR]

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In the light of the arguments advanced at the further hearing of this appeal in December, 1948, their Lordships will humbly advise His Majesty (1) that the decree of the Full Bench of the Chief Court should be set aside and that the respondents be ordered to deliver to the appellants possession of (a) the properties set out in Schedules B(1), B(2), and B(3) annexed to the written statement filed in the suit excepting Village Cheolaha, item 29 in Schedule B(1), the appellants accepting the accuracy of the said Schedules including all notes in the Remarks column, and if any dispute arises as to the effect of such notes it shall be decided by the Chief Court; (b) the cash and movable properties set out in Schedule D annexed to the Written Statement, other than those shown in the Remarks column to have been given away; (c) the promissory notes and mortgages set out in the list added to Schedule C annexed to the plaint in the suit under the Order of the 31st July, 1939, and all moneys paid or realised on account of or in satisfaction of any such securities as also any decrees obtained in respect thereof to the benefit of which decrees so far as they remain unsatisfied the appellants will be entitled: Provided that if the respondents within three months from the date of His Majesty's Order-in-Council claim that any of the items in Schedules C and D are taluqdari property, such claim shall be decided by the Chief Court; (2) that the respondents ought to pay to the appellants the sums of Rs.2,168.2.0 and Rs.495.1.7 mentioned in Schedule C annexed to the Written Statement; (3) that the respondents ought also to pay to the appellants mesne profits without interest of the properties set out in Schedules B(1), B(2), and B(3) annexed to the Written Statement filed in the suit (excepting Village Cheolaha and subject to the effect of the said notes in the Remarks column) from the 13th November, 1934, up to the date of delivery of possession; (4) that the plaintiffs (appellants before this Board) ought to pay four-fifths of the costs of the defendant (respondent before this Board) of the original suit, and ought also to pay four-fifths of the defendant's

costs of the appeal to the Chief Court; (5) that the case ought to be remitted to the Chief Court for an inquiry as to the amount of the aforesaid mesne profits and after determining the said amount the Chief Court ought to pass a final decree for payment thereof to the appellants; and (6) that the respondents ought to pay the appellants' costs of the said inquiry in so far as such costs shall have been in the opinion of the Chief Court properly incurred.

The appellants must pay four-fifths of the respondents' costs of this appeal, excluding the costs of the further hearing of the appeal in December, 1948, as to which their Lordships make no order.



In the Privy Council

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PANDIT CHANDRA KISHORE TEWARI AND  
OTHERS

v.

DEPUTY COMMISSIONER OF LUCKNOW  
IN CHARGE COURT OF WARDS SISSENDI  
ESTATE AND ANOTHER

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[DELIVERED BY SIR MADHAVAN NAIR]