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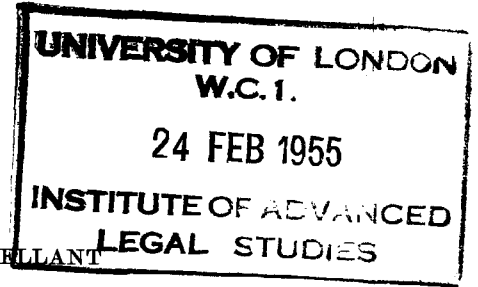
20, 1954

37684

In the Privy Council.

No. 31 of 1952.

ON APPEAL FROM THE SUPREME COURT OF
CYPRUS



BETWEEN

HUSSEIN RAJI AHMED FERID APPELLANT

AND

MEHMED ATA ALI ISMET and PEMBE ALI ISMET RESPONDENTS.

CASE FOR THE APPELLANT

RECORD

1.—This is an Appeal from the Judgment of the Supreme Court of Cyprus (Sir Edward Jackson, C.J. and M. Melissas, J.) dated the 18th July, 1951, affirming a Judgment of the Sheri Court of Nicosia (Sheri Judge A. Burhaneddin) dated the 30th October, 1950. p. 200

2.—The two consolidated actions were :

p. 3, ll. 35-45
p. 1

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(i) an action brought by the first-named Respondent against the second-named Respondent on the 12th April, 1945, in the Sheri Court of Nicosia for an order directing that the estate of one Ayshe Vehbi (deceased) of Nicosia devolve exclusively upon the Respondent and upon Mustafa Mukhtar Ali then living in America, as children of the uncle (on the mother's side) of the deceased and upon Gulsher Hafiz Mustafa then of Egypt as the daughter of the deceased's maternal aunt, and (ii) an action brought by the Appellant against the first-named Respondent on the 3rd November, 1945, in the said Court for an order directing that in view of the death of Cadi Ahmed Muhiddin and of his direct sister, Ayshe Vehbi, their estate devolve exclusively upon the Appellant as their nearest "asaba" i.e. son of the son of the deceased's paternal uncle. p. 2

20

3.—The principal question involved in the Appeal is whether or not the Appellant's grandfather, one Fahreddin Effendi of Nicosia, who died

RECORD

in or about A.H. 1293 (A.D. 1876) in Istanbul was the son of Osman of Nicosia and full brother of Vehbi, the father of the two said deceased, Ahmed Muhiddin and Ayshe Vehbi.

p. 100, ll. 3-20

4.—It was proved at the trial and conceded by the Respondents that if the said Fahreddin was the son of the said Osman then the Appellant was the "asaba" heir of the two deceased and entitled to the inheritance.

p. 100, ll. 20-24

It was proved by the Respondents and is conceded by the Appellant that the Respondents and the said Mustafa Mukhtar Ali and the said Gulshar Hafiz Mustafa are zevilerhan heirs of the deceased Ayshe Vehbi and that if the said Fahreddin was not the son of the said Osman, the Respondents and the said Mustafa Mukhtar Ali and the said Gulshar Hafiz Mustafa would be entitled to inherit the estate of the said Ayshe Vehbi. 10

p. 26, ll. 4-10

5.—The said Ahmed Muhiddin died in the St. Sophia quarter of Nicosia on the 25th October, 1937, without issue or parents surviving him, leaving a sister, Ayshe Vehbi him surviving.

p. 205, l. 20

6.—After his death the said Ayshe Vehbi claimed certain of the property of the deceased Ahmed Muhiddin as his heir, and in pursuance of the said claim the title deeds to one shop of 150 sq. ft., in Block 14, Plot 22, in the Korkut Effendi quarter of Nicosia was transferred to the said Ayshe Vehbi

p. 205, l. 15

p. 6, ll. 28-34

p. 8, ll. 37-40

on or about the 8th November, 1940; and certain shares, the property of the said deceased Ahmed Muhiddin deposited with the Turkish Bank Limited, Nicosia, were transferred to the said Ayshe Vehbi on the 7th November, 1943. 20

p. 9, l. 4

p. 208, l. 5

7.—The said Ayshe Vehbi died in the said St. Sophia quarter of Nicosia on the 8th April, 1945.

8.—The said deceased Ahmed Muhiddin was the son and the said deceased Ayshe Vehbi was the daughter of Vehbi Effendi of Nicosia, and his wife, Fatma Hanim, and the father of the said Vehbi Effendi was Osman Effendi.

9.—It is common ground between the parties that the said Osman had sons, namely: Haji Nouri; and the said Vehbi; and daughters, namely: Sheriff Mulla; Havva Mulla and Ayshe Mulla. 30

10.—It is common ground between the parties that the said Fahreddin was married to one Zuriye Hanim, and that the said Fahreddin and the said Zuriye had sons, namely: Ahmed Ferid and Mehmed Edip; and daughters, namely Aliye and Nessibe and Mounteha; and that the said Ahmed Ferid was the father of the Appellant, Hussein Raji Ahmed Ferid.

11.—So far as is relevant to the issues of this Appeal the evidence for the Appellant, Hussein Raji Ahmed Ferid, was as follows:

- I. Mehmed Assim Dedeze said he used to keep a shop in Bazirganlar Street. One of his neighbours was Hji Nouri. Hji Nouri told the Witness that the Appellant's father Ahmed Ferid was his brother's son. The Witness went to Istambul two or three times between 1926-1928. He met Ahmed Muhiddin and the Appellant there. Muhiddin said to the Witness, "This gentleman (meaning the Appellant) is our heir." Cross-examined he said that he did not know Ferid's father, mother or brother, nor where he lived as a child. He did not enquire whether Muhiddin's brother was full, paternal, maternal or foster. p. 21, ll. 11-43
p. 21, l. 45
p. 22, l. 7
p. 22, l. 17
p. 22, ll. 18-24
p. 23, ll. 14-16
p. 23, ll. 26-28
- 10 II. Ali Raji, a district sergeant-major of police in Nicosia, said he knew the Respondent, Mehmed Ata Ali İsmet. He met the Respondent Ata a few days after the death of Ayshe Vehbi, congratulated him on his big inheritance and said that a certain Remzi was claiming to be heir. The Respondent replied, "none of these is an heir, the real heir is Raji . . . " but as there are no news from him for the last fifteen years he is dead." The Respondent then explained his and the Appellant's relationship to the deceased. Cross-examined, the Witness denied that the Respondent, Ata, said to him that a certain Raji was alleging to be a relation on the paternal side. p. 24, l. 30
p. 24, l. 44
p. 25, l. 4
p. 25, l. 65
p. 25, ll. 8-13
pp. 25-29
- 20 III. Nazife Tahir said she had been in Ahmed Muhiddin's service for twenty years. When Ayshe Vehbi died, she was still living in Ahmed Muhiddin's house. Ayshe Vehbi told the Witness that the Appellant was the grand-child of her uncle. One Pembe Hanim, the sister of the Respondent Ata, came to ask Ayshe Vehbi's hand in marriage on behalf of the Respondent, Ata. Ayshe Vehbi refused. The Respondent Ata asked her to intervene on his behalf. She reported the conversation to Ayshe Vehbi, who remarked, "If I die, is it he who will inherit my estate? Once "Hussein Raji" (the Appellant) "is living he will inherit my estate." Cross-examined, the Witness said that Ayshe Vehbi used to tell her that 30 Raji was her uncle's son. She did not ask Ayshe Vehbi why if she had an uncle's son she should obtain registration of Muhiddin's shop in her name and mortgage it to the Witness. In answer to the Court, the Witness said that Ayshe Vehbi said that her father was Vehbi and that her father had a brother and/or sisters, but did not say who they were. p. 25, l. 45
p. 26, l. 7
p. 26, l. 9
p. 26, l. 18
p. 26, l. 23
p. 26, l. 30
p. 27, l. 28
- IV. Hassan Shevket, a retired Government Clerk, said the deceased Muhiddin had been a great friend of his, since 1900, and he knew Ahmed Ferid well. When the Witness was at Famagusta as Assistant Treasury Clerk, Ahmed Ferid came to him with a letter from Ahmed Muhiddin. On the Witnesses' recommendation Ferid was appointed a Temporary 40 Tithe Officer. Ahmed Muhiddin thanked him, saying, "I am pleased you "have had my cousin Ferid employed in the Tithe Collection work." The Witness was not cross-examined. p. 27, l. 30
p. 27, l. 34
p. 27, l. 38
p. 29, ll. 9-14
- V. Medmed Naji said that in 1900 when the Witness was Road Foreman he saw Ahmed Muhiddin at the Sheri Court. Ahmed Ferid was p. 28, ll. 22-35

RECORD

p. 29, l. 41 there. Ahmed Muhiddin referred to Ahmed Ferid as his cousin, his paternal uncle's son. Ahmed Muhiddin asked the Witness to take Ahmed Ferid to Kontopoulos, and tell him that Ahmed Ferid was Muhiddin's cousin so that he should re-employ him. Cross-examined, he said that Muhiddin said, "This is my uncle's son, a cousin of mine, and for this reason I ask "your mediation for his re-employment."

p. 30, l. 41
p. 31, ll. 10-40

VI. Hussein Mehmed stated he was 85 years old. His father put him in the service of the Imam of Tahtalkala. The Imam of Tahtalkala's second daughter was Hatije Hanım, the wife of Haji Nouri. Another daughter, Fatma Hanım was wife to Vehbi. Haji Nouri and Vehbi were 10 brothers. There were three brothers, the third being Fahreddin who was the eldest. The Witness knew Fahreddin. He did not remember the father of Vehbi and Haji Nouri. He heard he was called Osman. Fahreddin was married to Zuriye Hanım. Fahreddin was taken ill and went to Istanbul and never returned. Haji Nouri gave provisions to Zuryie because she was widowed by Fahreddin's death. The Witness stayed with the Imam four to five years. Cross-examined the Witness denied that he told the Respondent Ata that he did not know the Imam's daughters. He did not know whether Vehbi had sisters. He heard from Haji Nouri and everyone that Fahreddin was a brother of Haji Nouri. He was about 20 8 to 10 years old when Fahreddin left for Istanbul.

p. 34, l. 32
p. 34, ll. 38-43

p. 35, l. 3
p. 35, l. 17
p. 35, ll. 40-44

VII. Hatije Abdurezak said that she was 92 to 93 years old. She came to Nicosia when she was 14 years old and was given to Vehbi as an adopted daughter. He had brothers, one was Haji Nouri and the other Fahreddin. The eldest was Fahreddin. They were full brothers and their father's name was Osman, and their mother's Fatma Hanım. Cross-examined, the Witness said she stayed at her master's house five to six years. Haji Ahmed was the Witness's master's relation, but she did not ask what was their relationship. She did not hear that Fahreddin was Haji Ahmed's son. Fahreddin was Haji Ahmed's son and he used to 30 say that Haji Ahmed was his relation. Vehbi was smaller than Haji Nouri by five to six years. He was the eldest of them and they called him "agham" (my elder brother). Re-examined the Witness said that of the three brothers, Fahreddin, Vehbi and Haji Nouri, the eldest was Fahreddin.

p. 36, l. 25
p. 36, l. 29
p. 36, ll. 33-40

p. 37, l. 1

p. 37, ll. 8, 32-5
p. 37, l. 9
p. 37, l. 19
p. 37, l. 25

VIII. Pembe Hassan said that she was an adopted daughter of Havva Mulla, to whom she was given when she was 5 years old. She stayed with Havva Mulla until her death. Havva Mulla had three brothers and three sisters. Her brothers were Haji Nouri, Fahreddin and Vehbi. Of her brothers, the Witness only remembered Haji Nouri. Haji Nouri, Havva Mulla and Ayshe Mulla used to say that the brothers were full 40 brothers. Fahreddin's daughters Mounteha Nessibe and Ayshe used to call Havva Mulla "aunt" (paternal). Havva Mulla gave Mounteha food and sometimes money. Fahreddin's son Ahmed Ferid used to call Havva Mulla "aunt" (paternal). Ahmed Ferid used to ask Haji Nouri for

money. The Witness lived with Havva Mulla for about nineteen years. p. 38, l. 9
 Cross-examined the Witness said Fahreddin's father was Osman. Havva p. 39, l. 36
 Mulla used to tell her that her father was Osman, but did not say that
 Fahreddin's father was Osman.

IX. Ahmed Haji Hafiz Hassan said he was 77 to 78 years old. p. 40, l. 12
 His mother once sent him to Havva Mulla. He asked her, "Are you p. 40, ll. 22-27
 "a sister of my grandmamma?" and she replied, "I, Sheriff Mulla, Vehbi
 effendi, Haji Nouri and Fahreddin who is abroad, are all brothers and sisters."
 Cross-examined, the Witness said he was 7 to 9 years old when he was sent p. 41, ll. 33-38
 10 to Havva Mulla. His conversation took place seventy years ago. What p. 40, l. 44
 he was told by Havva Mulla was all he knew about their relationship.

X. Mehmed Arif said he was a Sheri Court Clerk in Nicosia. Muhidden p. 41, l. 23
 died before Ayshe Hanim. There is no record of his estate. Ayshe Hanim p. 42, ll. 1-8
 Vehbi left moveable and immoveable property. The Title Deeds of the
 immoveable property stand in the name of Muhiddin, Ayshe and their
 mother Fatma Hanim Mustafa. The Witness produced the Title Deeds. p. 209
 Cross-examined, he said that had a notice been given that Ahmed Muhiddin p. 42, l. 20
 had an absent heir, his estate would have been taken into control by the
 Sheri Court. A shop in Korkut Effendi Quarter is registered in Ayshe p. 42, l. 26
 20 Hanim's name, and its title deeds was included in those produced.

XI. Fatine Hussein said that her sister married Ahmed Ferid and p. 48, ll. 2-10
 that she went to live with her sister when she was 8 years old. The Appellant
 was her sister's son. Fahreddin had six brothers and sisters. The brothers p. 48, ll. 22-23
 were Fahreddin, Haji Nouri and Vehbi. They were full brothers.
 Cross-examined, the Witness said that Vehbi's father was Osman. The p. 49, ll. 8-11
 Witness did not remember him or Vehbi, Haji Nouri or Vehbi's sisters.
 She heard about them. She heard from Zuriye and Ahmed Ferid that p. 49, ll. 12-14
 Vehbi Fahreddin and Haji Nouri were full brothers. Fahreddin's father p. 49, l. 16
 was not Haji Ahmed. Ahmed Ferid had no relation named Haji Ahmed.
 30 In reply to the Court, the Witness said Raji's father was Ahmed Ferid, p. 49, l. 27
 whose father was Fahreddin whose father was Osman.

XII. Remzi Yussuf the son of Monteha said Monteha's father was p. 49, l. 32-37
 Fahreddin. He heard from his grandmother Zuriye and his aunts Nessibe
 and Aliye that his grandfather was Fahreddin. He went to Haji Nouri p. 49, l. 44
 with his grandmother and aunt. Haji Nouri gave articles to his
 grandmother and refused to take money. Whenever his mother visited p. 49, ll. 5-28
 Muhiddin he used to give her money, butter, rice and sugar because of her
 relationship with him. The Witness went to Muhiddin's house on the
 occasion of Bairams and was given money. When Ahmed Muhiddin died
 40 the Witness went with his mother to the Mufti to ask for his mother's right.
 When Ayshe died the Witness saw the Mufti again. Then he wired Istanbul
 and went to the Turkish Consulate. Cross-examined the Witness said p. 51, l. 8
 that he did not write to Raji about Muhiddin's death because of the Mufti's

p. 41, ll. 25-30

p. 51, ll. 41-44

advice. The Witness used to hear from his mother, Zuriye Hanim, his aunt and uncle that Vehbi, Haji Nouri and Fahreddin were brothers. The Witness did not know who Haji Ahmed was. Re-examined, the Witness said that on his first visit the Mufti said, "Cadi Muhiddin Effendi dedicated his property as Vakf, and on his death all his property will pass to the Evkaf," and that was why the Witness did not communicate with Raji.

p. 52, l. 28

p. 52, l. 33

p. 52, ll. 33-44

p. 54, ll. 17-28

p. 54, l. 36

XIII. The Appellant said he was born in Nicosia in the Arab Ahmed quarter. He heard from his father and paternal aunts, Nessibe and Mounteha that his grandfather was Fahreddin, and his great grandfather Osman. Zuriye's father was Hussein Edip. Hussein Edip died in Zuriye's house because he was not getting on well with his wife. The Witness met Mehmed Assim Dedezeade in Istanbul. Ahmed Muhiddin said to Dedezeade pointing to the Witness, "Yes, he is Raji, my heir." He first heard of Ayshe Hanim's death from Dr. Hafiz Jemal, and then from the office of the Director of Internal Security, where news had come from the Turkish Consulate in Cyprus. Cross-examined the Witness said he left Cyprus in 1909. His grandfather Fahreddin did not come from Lefka. Fahreddin's father was not Haji Ahmed. The Witness's father used to say that Haji Nouri had left him a small inheritance. He did not know what inheritance. 10

p. 54, l. 45

p. 55, l. 25

p. 55, l. 44

p. 56, l. 23

p. 57, l. 27

p. 58, l. 16

p. 58, ll. 39-44

XIV. Muzeyyen Mustafa said she was 75 years old. Vehbi and Fahreddin were brothers. Cross-examined, the Witness said that Zuriye's house at Omerieh was an inheritance from her father Hussein Edip. The Witness never saw Zuriye's husband and did not know if he was from Lefka. She heard that he had property at Lefka.

p. 59, l. 39

p. 60, ll. 19-25

p. 60, ll. 35-41

XV. Dervish Haji Hussein said he was 77 to 78 years old. He used to play with Ahmed Muhiddin, Ahmed Ferid, and Mehmed Edip in the Omerieh quarter. Mehmed Edip said referring to Muhiddin, "he is my uncle's (paternal) son." Cross-examined, the Witness said that at the time he was 7 to 8 years old. This was about seventy to seventy-one years ago. 30

12.—So far as is relevant to the issues of this Appeal the Evidence for the Respondent was as follows :

p. 9, l. 20

p. 9, l. 23

p. 9, l. 31

p. 10, ll. 8-17

I. Hafiz Mehmed Refet said he was 82 to 83 years old. Vehbi was a brother of Ayshe Mulla, who brought up the Witness' mother. Ayshe Mulla's brothers were Vehbi and Haji Nouri. Cross-examined, he said he did not know if Vehbi had a brother named Fahreddin. Zuriye used to come to his mother. He did not know if Zuriye's husband was Fahreddin, whether she was married or had any children.

p. 11, l. 19

p. 12, ll. 12, 23

p. 12, l. 35

p. 13, ll. 3-14

II. Mehmed Atta, the Respondent, said he was 60 years old. Vehbi's brother was Haji Nouri. Vehbi had no brother other than the one he had mentioned. Cross-examined, he said he did not hear of Zuriye. He knew Mounteha. After Muhiddin's death he asked his sister Ayshe Hanim's 40

hand in marriage. His object in asking the old woman's hand was because she was left alone, and he sympathised with her. No conversation took place between Serjeant Ali Raji and him in connection with the inheritance. He did not know who Ferid's father was. p. 14, ll. 20-30

III. Hadije Hussein Refet said Vehbi had Haji Nouri as a brother. They had no other brother. Cross-examined, she said she left Cyprus fifty years ago. She did not know if Vehbi had a brother who died before she was born. Re-examined, she said had there been any other brother, she would have been informed. p. 15, ll. 34-36
p. 16, ll. 1-5
p. 16, l. 8

10 IV. Zehra Nevber, cross-examined, said Muhiddin had been to Istanbul in 1925-26 and in 1930-33. p. 17, ll. 25-28

V. Mehmed Shefik Zia said that his parents died when he was a child, and Muhiddin had been appointed his guardian. From 1905 to 1914 he stayed with Hatije Hanim, the sister of Ayshe's mother. Ayshe Hanim and Ahmed Muhiddin's father were five brothers and sisters: Sheriff Mulla, Havva Mulla, Ayshe Mulla, Haji Nouri and Vehbi. His information was obtained from his aunt Hadije and her sister, Fatma. Cross-examined, he said he was nearly 50. He did not remember Fahreddin. p. 18, l. 8
p. 8, ll. 30-16,
20-35
p. 19, l. 16-19
p. 19, ll. 30-34
p. 19, l. 40
p. 20, ll. 7-10

13. On the 4th July, 1946, at the close of the evidence the first-named Respondent applied to the Sheri Court for leave to call evidence to rebut the evidence called by the Appellant in support of his claim. p. 61, l. 8
20

14.—On the 9th June, 1947, the Sheri Court (Sheri Judge A. Burhaneddin) refused the application. The learned Judge said that the first-named Respondent basing himself on the fact that there were two issues in this action and without giving any further reasons applied for leave to call rebutting evidence and further stated that as the issues were separate, he was not bound to say on what points he proposed to call evidence and claimed to have a general right to call rebutting evidence. Rebutting evidence could not be allowed without reasons and points being stated. The Court was of opinion that the issues in this consolidated action were in essence one. p. 67,
30

15.—The first-named Respondent appealed to the Supreme Court of Cyprus.

16.—In pursuance of the Order of the Supreme Court of Cyprus No. 54 of the 28th January, 1949, the Sheri Court of Nicosia (Sheri Judge A. Burhaneddin) received rebutting evidence tendered by the first-named Respondent. So far as the said evidence is relevant to the issues in this Appeal it consisted of two old records. First was the Nufus Register for the Omeriye Quarter of Nicosia, page 103, entry No. 3673. The Register was divided into two parts. One called "Original Population" and the other "Those who come to settle." For the House No. 14, the Register p. 68
pp. 221-222
p. 220
p. 221
40

RECORD

- pp. 223-4 showed in the "Original Population" Edib Hussein Effendi Mustafa Aga and his wife Saime, daughter of Hji Hussein. The entry had originally been "Edip Hussein Effendi son of Abdullah" but "son of Abdullah" had been struck out and "Moustafa Aga" written in its place. Under "Those who come to settle" one Mehrettin is shown as having been born in Lefka in A.H. 1246 (A.D. 1830) and as having come from Lefka. The same page of the Register recorded the deaths of Fahreddin and Edip Effendi. The Respondents contended that the name Mehrettin was an error and should have been Fahreddin. The second document was a Register of the Old Sheri Courts registered No. 51, page 112. This page purported to record the sale of House No. 14 at Hezir Street in the Omeriye of Nicosia by Hussein Edip Effendi to his son-in-law Hussein Fahreddin Effendi for the sum of 1,300 piastres. The record recited that Hussein Fahreddin Effendi was the son of Alhaj Ahmed of the Omeriye Quarter of Nicosia. The record bore no seal or signature. 10
- p. 93, l. 15 17.—Judgment was given by the Sheri Court (Sheri Judge A. Burhaneddin) on the 30th October, 1950, in the following terms :—
- "The Court having considered the evidence adduced and
"the legal and Sheri value of the Exhibits put in by the parties
"in this consolidated action, gives Judgment as per claim of the
"first party, in action No. 14/45 (i.e. the first-named Respondent) 20
"that Mehmed Ata Ali Ismet and Gioulshen Hafiz Moustafa
"are the exclusive heirs of the deceased Ayshe Vehbi of Nicosia."
- No finding of facts was given, and no reason for the Judgment.
- p. 94, l. 18 18.—On the 17th November, 1950, the Appellant appealed to the Supreme Court of Cyprus (Sir Edward St. J. Jackson, C.J. and Mellisas, J.) and the Appeal was heard on the 16th July, 1951.
- p. 103, l. 29 19.—During the hearing of the Appeal the Respondent called Moustafa Loutfi to interpret the old Arabic documents into English. So far as relevant to the issues in this Appeal, the Evidence given by Moustafa Loutfi was as follows :— 30
- p. 110, ll. 9-35 Speaking of the two names in the Nufus Book Mehrettin and Fahreddin the Witness said that in the Arabic original the difference between the two names was that in Fahreddin there were two dots over two of the Arabic symbols which were not present in the name Mehrettin, but otherwise Arabic symbols were identical. Speaking of the Register of the old Sheri Courts which recited the presence of Hussein Fahreddin Effendi the son of El Haj Ahmed, the Witness said that El Haj was the Arabic equivalent of the Turkish Haji and meant a person who had gone on a pilgrimage to Mecca. 40
- p. 143, ll. 38-43

20.—Judgment of the Supreme Court of Cyprus (Sir Edward Jackson, C.J. and Mellissas, J.) was delivered by Sir Edward Jackson, C.J. on the 18th July, 1951. Sir Edward Jackson, C.J. said :—

p. 190

- “ It was clearly necessary for the Appellant, if he was to succeed in his claim that he should destroy the evidence of the Nufus Book and the Sheri Register. . . . Even in the grounds of appeal the Nufus Book as well as the Sheri Register are described as inadmissible documents. But, at the hearing before us, the Appellant’s counsel himself produced the case of *Houriye Moustafa and Others v. Ahmed Ramadan and Others* (Cyprus Law Reports, volume 17, page 33). . . . In view of that case it was clearly impossible to contest the admissibility of the Nufus Book. ”
- 10
- “ The extract from the Sheri Register was attacked . . . not on the ground of inadmissibility, but on the ground of weight. . . . No one who looks at the Register could fail to appreciate that it is a record which should be treated with considerable respect. At the time of the transaction with which we are concerned, 1863, no one conceivably could have had any interest in misrepresenting the paternity of Fahreddin and the same observation applies to the entry in the Nufus Book. Even if there is any obscurity about certain of the particulars in that book there can be none about its records to the paternity of Fahreddin. ”
- 20
- “ . . . We may perhaps repeat here that there has never been any dispute about the Respondents’ relationship to the deceased Ayshe on the maternal side. The burden therefore has lain throughout on the Appellant to establish his superior claim. If there could be any reasonable doubt that he had established it the necessary consequence would be that his claim should be dismissed. ”
- 30
- “ In the absence of any indication by the Sheri Judge of the considerations which led him to that conclusion, or of his view on the credibility of any of the witnesses whom he had heard, we thought at one time that it might be necessary to get from him some further indication of the processes by which his conclusion had been reached. But the further argument before us was developed the more convinced we became of the bareface falsity of the Appellant’s claim and of the soundness of the conclusion which the Sheri Judge had reached upon it. ’ ”
- 40

p. 190 (B), l. 38—
p. 190 (C), l. 5

p. 190 (C), ll. 10–30

p. 190 (D), ll. 16–21

p. 190 (D), ll. 27–34

21.—The Appellants submit that the Judgment of the Supreme Court of Cyprus should be reversed and the Appeal allowed for the following, amongst other

REASONS

- (i) **BECAUSE** the Nufus Book and the Register of the old Sheri Court ought not to have been admitted in evidence.
- (ii) **BECAUSE** the decision of the Supreme Court was contrary to the evidence.
- (iii) **BECAUSE** the Supreme Court of Cyprus attached undue weight to the Nufus Book and the Sheri Court Register.
- (iv) **BECAUSE** there was no oral evidence to support the statements as to the paternity of Fahreddin in the Nufus Book and the Sheri Court Register, except only the evidence 10 given by Hatije Abdurezka, an old lady of 93, who stated in cross-examination that Fahreddin was Haji Ahmed's son when the words were put into her mouth.
- (v) **BECAUSE** by the evidence of the persons called who knew Fahreddin stated that he was the son of Osman and the witnesses for the Respondents contented themselves with denying all knowledge of Fahreddin.
- (vi) **BECAUSE** the statements as to the paternity of Fahreddin in the Nufus Book and in the Sheri Register were entirely uncorroborated by any other evidence. 20

LEON MACLAREN.

In the Privy Council.

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CASE FOR THE APPELLANT

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