

Before Mr. Justice Jackson and Mr. Justice Tottenham.

1880
April 30.

JOGGESSUR SINGH AND OTHERS (DEFENDANTS) v. BYCUNT NATH
DUTT AND OTHERS (PLAINTIFFS).*

Evidence—Government Survey Map—Presumption of Accuracy—Evidence Act (I of 1872), s. 83.

The presumption under the Evidence Act in regard to the accuracy of a map made under the authority of Government, is in no way affected by the fact that such map has been superseded by a later survey map made under the same authority, and by an order of the Board of Revenue.

THIS was a suit for the recovery of certain lands illegally in possession of the defendants. The plaint, *inter alia*, stated that certain lands, forming part of the estate of the plaintiffs' ancestor, had become diluviated; and that the lands, the subject of the present suit, had reappeared on the identical site once occupied by those diluviated lands. In proof of the plaintiffs' claim, the Government survey maps of the years 1844 and 1870 were put in and accepted as evidence.

The Court of first instance, on the facts adduced, gave the plaintiffs a decree, and this decision was upheld by the lower Appellate Court.

The defendants appealed to the High Court.

Baboo *Hem Chunder Banerjee* (with him Baboo *Omakali Mookerjee*) for the appellants.—The Government survey map for the year 1844 was not evidence, such survey having been superseded by the subsequent survey of 1870 and by the order of the Board of Revenue cancelling the same.

Baboo *Mohiny Mohun Roy* (with him Baboo *Umbika Churn Ghose*) for the respondents.

* Appeal from Appellate Decree, No. 1375 of 1879, against the decree of Baboo Sree Nath Roy, Subordinate Judge of Hooghly, dated the 8th April 1879, affirming the decree of Baboo Shoshee Bhoosun Mookerjee, Second Munsif of Moheshrukha, at Amtah, dated the 4th March 1878.

The judgment of the Court (JACKSON and TOTTENHAM, JJ.) was delivered by

JACKSON, J. (*who, after disposing of points not relevant to this report, proceeded as follows*):—

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The Appellate Court had also the survey map of the year 1844, to which objection had been taken, that objection being the old formal one, that, by an order of the Board of Revenue, the entire Government survey of the district of Hooghly had been annulled and a fresh survey made. That does not appear to us specifically to affect the presumption of law contained in the Evidence Act in favor of the particular survey map of this mouza, which must be presumed to be correct until the contrary is proved by the parties. It does not prove the contrary to show that the general survey had been set aside, because it is quite consistent with that order that the actual bearing of the land in suit should be correct. However that may be, it seems that a second survey having taken place in the year 1870, a new map was made, which coincided precisely with that of 1844. Under these circumstances, we think that the lower Appellate Court had before it, independently of the decisions objected to, sufficient grounds for affirming the judgment of the Court below.

The appeal is dismissed with costs.

Appeal dismissed.

Before Mr. Justice White and Mr. Justice Maclean.

RAMNIDHEE MANJEE (DEFENDANT) v. PARBUTTY DASSEE
 (PLAINTIFF).*

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 April 12.

*Accretion—Rent Law—Notice of Enhancement—Beng. Act VIII of 1869,
 s. 14—Reg. XI of 1825, s. 4, cl. 1.*

When the area of land held by a tenant under a permanent tenure has been increased by accretion, the tenant becomes subject to pay an increased rent on account of the land gained by accretion on the conditions laid down in

* Appeal from Appellate Decrees, Nos. 771, 772, and 773 of 1879, against the decree of Baboo Bhupoti Roy, Subordinate Judge of East Burdwan, dated the 30th December 1878, modifying the decree of Baboo Koylash Chunder Mojoondar, Additional Munsif of Cutwa, dated the 21st February 1878.