the decree of the lower appellate court and remand the case to it under the provisions of order XLI, rule 23, with directions that it be re-admitted under its original number in the register and determined according to law. Costs here and hitherto will abide the event.

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Appeal decreed. Cause remanded.

PRIVY COUNCIL.

P. C. 1910. *November* 9, 10. *December* 2.

MUHAMMAD BAKAR AND ANOTHER (PLAINTIFFS) *v.* MUHAMMAD BAKAR ALI KHAN AND ANOTHER (DEFENDANTS).

[On appeal from the Court of the Judicial Commissioner of Oudh, at Lucknow.]

Settlement of Oudh—Taluqdar settled with on terms as to which no evidence could be given—Second summary settlement—Villages inluded in taluqdar's estate and not recovered by payment of money due on account of them—Trustee or lien-holder—Redemption barred by Act No. I of 1869, *section* 6—*Adverse possession.*

This appeal related to certain villages in Oudh which belonged prior to the annexation of that Province to the widow of the predecessor in title of the appellants, and were, under some arrangement of the exact nature of which there was no evidence, included in the estate of the ancestor of the respondent, a taluqdar, in whose possession they were found at the settlement in 1859. The widow at that time applied as owner for the settlement of the villages. Her claim was resisted by the agent of the taluqdar on the ground that he was entitled to possession until sums paid by him on account of the villages were paid off; and the settlement was made "in accordance with possession," the widow being directed by the settlement officer to proceed by separate application to get the villages released by payment of the money due by her; but she took no steps to get the property released; and when in 1867 she applied for regular settlement of the villages her claim was dismissed on 31st October 1868, on the ground that they were included in the sanad granted by Government to the taluqdar. In a suit brought in 1905 by representatives of the widow for possession of a share of the property on the ground that the settlement proceedings in 1859 constituted the taluqdar either a mortgagee or a trustee on behalf of the widow it was admitted that the claim for redemption was barred by section 6 of Act No I of 1869.

Held (upholding the decision of the Court of the Judicial Commissioner) that there was no warrant for the contention that the correlative obligation that lay on the taluqdar to release the villages on payment of the money due on account of them created a trust or constituted him a trustee for the widow, who took no steps to comply with the directions of the settlement officer, and allowed

Present:—Lord MACNAGHTEN, Lord MERSEY, Lord ROBSON, Sir ARTHUR WILSON and Mr. AMEER ALI.

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the taluqdar to remain in possession and set up a distinctly adverse title in 1867, when she applied for regular settlement.

Hasan Jafar v. *Muhammad Askari* (1) distinguished. From the date of the dismissal of her application in 1868, possession was adverse to her, and the suit, not having been brought until 1905, was clearly barred by lapse of time.

APPEAL from a judgement and decree (22nd July, 1907) of the court of the Judicial Commissioner of Oudh, which reversed a decree (29th August, 1905) of the Subordinate Judge of tahsil Biswan in the district of Sitapur, and dismissed the appellants' suit with costs.

The suit was brought against the first respondent and another defendant for possession of a half share in six villages in Oudh, and the main question for decision in this appeal was whether the British Government at the re-settlement of the Province of Oudh, after the confiscation of all proprietary rights in 1858, had made a settlement with Nawab Munauwar-ud-daula, the grandfather of the first respondent, and conferred upon him the proprietary title in respect of the villages in suit as a trustee for Musammat Wazir-un-nissa the widow of one Qazi Muhammad Azhar the predecessor in title of the appellants.

The appellants' case was that in 1849, Wazir-un-nissa was proprietor of the six villages, and in that year they were at her instance included in the *kabuliat* of Nawab Munauwar-ud-daula, an arrangement under which the Nawab paid the Government revenue to the King of Oudh, leaving the title and possession of Wazir-un-nissa as zamindar of the villages unaffected.

In 1856 the first summary settlement was made with the Nawab. In 1858 at the second summary settlement various claims were put forward to settlement of the villages in suit, and Wazir-un-nissa lodged her petition for settlement basing her claim on her rights as proprietor. In the course of the proceedings the statement of her agent Husain Khan was recorded, and also the statements of Syed Ali Husain the Nawab's agent, and of the kanungo of the pargana. The kanungo proved Wazir-un-nissa's proprietary title, and Syed Ali Husain asserted that the villages had been included in the Nawab's ilaqa since 1849, and that they had been settled with the Nawab in 1856 with the consent of the original zamindar. He asked for settlement on the ground that

(1) (1899) I. L. R., 26 Calc., 879; L. R., 26 I. A., 229.

eight years arrears were due to the Nawab, and stated that whenever the original zamindar paid off what was due the villages would be released.

On the 19th February, 1859, the extra Assistant Commissioner of Sitapur made the following order on the claims:—

"The objection of the agent of Nawab Munauwar-ud-daula is that she at her own instance got the villages included into his taluqa, hence she can get the villages released on payment of the arrears and *takavi*. As the facts of the case have been recorded in detail, therefore it is ordered that the *kabuliat* shall remain as usual in accordance with possession in the name of the agent of Nawab Munauwar-ud-daula. The claim of the Thakurs, who have been out of possession for 100 years, is dismissed. The *zamindari* right of the wife of Qazi Muhammad Azhar appears to be correct. She should file a separate application to have the money due to the agent to Nawab Munauwar-ud-daula settled by arbitration and have her villages released. Whenever the villages, on payment of the money due to Nawab Munauwar-ud-daula, are released the mortgagees shall be at liberty to put forward their claim."

And on the 24th February, 1859, that order was confirmed by the settlement officer.

At the regular settlement in 1867, Wazir-un-nissa and her daughter again put forward a claim to the villages in suit, which was rejected on the 31st October, 1868, on the ground that they were included in the sanad granted to the Nawab. In 1870 they made a claim to a sub-settlement, under Act XXVI of 1866, but on the 15th March, 1871, the settlement officer refused to decree to the claimants an under-proprietary right in the villages, but on the 31st August, 1871, Wazir-un-nissa was granted a decree for under-proprietary rights in them of a limited character.

On the death of Wazir-un-nissa her daughter's sons, the second respondent and his brother Muhammad Taki, became her heirs. Muhammad Taki died in March, 1902, and the appellants, who are his son and daughter succeeded as heirs, and, on the 3rd March, 1905, they instituted the present suit, claiming, as against the heirs of the Nawab Munauwar-ud-daula, that the settlement proceedings of 1859 had constituted their ancestor either a trustee or a mortgagee in respect of the villages of which Wazir-un-nissa had been the owner, and that the plaintiffs were entitled in the alternative either to redemption or cancellation of the trust, and possession consequent thereon.

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The first defendant alone defended the suit. In his written statement he denied the existence of any trust or mortgage as alleged; and stated that on the 9th January, 1873, Wazir-un-nissa and her daughter executed a deed of gift of the villages in suit in favour of Muhammad Raza, the second defendant, whereby they divested themselves of all rights in the villages; and that in 1898, Muhammad Raza instituted a suit, (127 of 1898) of a nature exactly similar to the present suit in which he claimed possession of the villages in suit against this defendant, and in that suit Muhammad Taki, father of the plaintiffs, was also a defendant; that that suit was dismissed on the 7th February, 1901; that Muhammad Raza appealed against that decree, but the case was compromised by this defendant and Muhammad Raza, and a decree in terms of the compromise was made on the 4th November, 1902, in pursuance of which some of the villages in suit had been given to Muhammad Raza who was still in possession of them. The first defendant's pleas now material were that the suit was barred by lapse of time, and also by sections 13 and 43 of the Civil Procedure Code of 1882; that the effect of the settlement proceedings was to confer a proprietary title on the predecessors in title of this defendant, and on this defendant; and that the predecessors of the plaintiffs had all along admitted the title of this defendant and his predecessors and were now estopped from disputing it.

The issues so far as they are now material were:—

(1) Was the proprietary right in the villages in suit conferred on Wazir-un-nissa, after the confiscation of the proprietary rights in land, as stated in paragraphs 9 and 10 of the plaint. [As to the settlement proceedings in 1859, and the orders of the Assistant Commissioner, &c.] ?

(3) Is the status of Munauwar-ud-daula that of a lien-holder or mortgagee in respect of the villages in suit?

(6) Has the first defendant been in adverse possession of the villages in suit for more than 12 years before suit?

(7) Is the suit barred by limitation?

(8) Is the suit barred by sections 13 or 43 of the Civil Procedure Code?

In the course of the trial before the Subordinate Judge, the plaintiffs abandoned their allegation of a trust and relied on their claim to redemption as from a mortgagee.

On the above issues the Subordinate Judge held (1) that the proprietary title to the villages in dispute was conferred upon Wazir-un-nissa, and the settlement was made with the Nawab as a mortgagee or lien-holder; (3) that the Nawab was a lien-holder; (6) that the first defendant had not been in adverse possession of the villages for more than 12 years; (7) that the suit was not barred by limitation; (8) nor by sections 13 and 43 of the Civil Procedure Code.

The Subordinate Judge gave the plaintiffs a decree for possession of the property in suit on payment of Rs. 1,651 within a certain time.

From that decision the first defendant appealed to the Court of the Judicial Commissioner, and a Divisional Bench of that Court (Mr. E. CHAMIER, Judicial Commissioner and Mr. J. SANDERS, First Additional Judicial Commissioner) decided that the proprietary interest in the villages in suit was in the Nawab and that nothing in the settlement or otherwise imposed on him any obligation to restore possession of them to the appellants, and reversed the decree of the Subordinate Judge (1).

The judgement of the Judicial Commissioner after stating that

"In this Court the plaintiffs abandoned the claim to redeem, admitting that it was barred by section 6 of Act No. I of 1869, and pressed the claim as one for recovery of property from a trustee."

And after stating the facts continued:—

"The question then is whether the plaintiffs have proved that the settlement was made with the Nawab as a trustee. If they have proved this, then, subject to the other defences raised by the defendant, they may recover their shares in it, notwithstanding that it was included in the taluqdari sanad granted to the Nawab and he and his son Amjad Ali Khan after him were declared by the letter of 10th October, 1859, and by Act I of 1869 to be proprietors of the same."

Then after stating the settlement proceedings in 1859 and the decision of the claims by the order of the Extra Assistant

(1) (1907) 10 Oudh Cases, 296.

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Commissioner and confirmed by that of the Deputy Commissioner the judgement proceeded:—

"On this evidence it appears to me absurd to suggest that the Government settled with the Nawab as trustee for Wazir-un-nissa or that he undertook to hold the property for her as a trustee. He claimed a lien or charge. His position was closely analogous to that of a mortgagee and it will be convenient to refer here to the orders of Government both before and after the settlement of 1859 regarding villages settled with taluqdars as mortgagees."

After referring to those orders of Government, ending with the letter of Government of the 10th October, 1859; the Circular No. $\frac{119}{2917}$ of the Chief Commissioner, dated the 13th August, 1860, and paragraph 21 of the Circular No. 1123, dated the 13th April, 1862, the judgement continued:—

"Subsequently Government came to the conclusion that injustice had been done to proprietors whose villages had under the orders of 1858-9 been settled with taluqdars on the strength of mortgages set up by them, and the taluqdars were induced to agree to a relaxation of the orders giving finality to the settlement of 1859. The official papers suggest that one of the objects of Act XIII of 1866 was to permit the redemption of mortgages in taluqas made after the 13th February, 1844, but if so the Act was very badly designed, for it merely extended the period of limitation and provided for a re-hearing of claims which had been rejected on the ground of limitation. Nothing effectual was done till 1869, when section 6, Act I of that year relaxed the rules of 1859 as regards certain instruments of mortgage. It is conceded by the plaintiffs that this enactment does not help them. The circular orders, which I have quoted, show that the Government were perfectly well aware that many taluqdars had on various grounds been allowed to engage in 1859 for villages to which they had no right whatever, but they deliberately decided to adhere to their promises regarding the settlement of 1859 except in so far as the taluqdars themselves consented to give up their rights.

"None of the well-known cases in which trusts have been enforced against taluqdars, notwithstanding the orders of 1859, have gone the length of holding that taluqdars who were settled with in 1859 as mortgagees or charge-holders should be regarded as trustees. The only case which bears any resemblance at all to the present case is that of *Hasan Jafar* v. *Muhammad Askari* (1), but when that case is examined it will be found that it is clearly distinguishable from the present case. In that case it was held that Hakim Hasan Ali was trustee for his co-sharers, because the Chief Commissioner settled with him on the footing that he would give his co-sharers their shares if they re-appeared. In the present case neither the Government nor the officers charged with making the settlement made any such stipulation. They simply settled with the Nawab, because he was in possession and left Wazir-un-nissa to redeem her property if she could. She never attempted to do so before the orders of Government rendered redemption impossible and therefore she cannot do so now.

(1) (1899) I. L. R., 26 Calc., 879; L. R., 26 I. A., 229.

"Any other view of this case would destroy in a great measure the settlement of 1859 and unsettle titles all over the Province.

"Moreover, the Nawab and his successors have long since ceased to be mere lien-holders of the property in suit. In 1867 Wazir-un-nissa and her daughter sued for possession of the property. They might have set up a trust then, but they did not do so, and their suit was dismissed; see Exhibits A1, 2, and 4. In 1870 they sued for sub-settlement of the property. That suit also was dismissed; see Exhibits A10, 11 and 19. In 1871 they claimed under-proprietary rights of various kinds, and ultimately got a decree for a substantial *nankar*, for *sir* and other rights, see Exhibits A29 and 21. The position of the parties under this decree is inconsistent with the continuance of the relation of trustee and cestui-que trust if any such relation ever existed. The possession of the defendant and his predecessor has been adverse to the plaintiffs and their predecessors for at least 30 years past as regards the proprietary title to the villages. In my opinion the plaintiffs have entirely failed to substantiate any case of trust and their suit is barred by the failure of their predecessors to set up a case of trust in 1867 and 1870 and is also barred by limitation."

On this appeal

DeGruyther, K. C. and *Ross* for the appellants contended that the effect of the settlement proceedings subsequent to the confiscation of all titles in Oudh on its annexation by the British Government was not to deprive Wazir-un-nissa, the predecessor in title of the appellants, of all right to the villages in suit, of which she was without doubt the owner previous to the confiscation, and to give the ancestor of the respondent a proprietary title to them. Whatever the arrangement by which, with her acquiescence, they were settled with the Nawab, it must have been one under which she would be able to recover them when she chose to claim them. The possession of the Nawab, either as a trustee or a lien-holder, did not enable him to set up adverse possession against her. It was submitted that that was the construction to be put on the order of the Extra Assistant Commissioner in February, 1859; and it was quite inconsistent with that construction to say that the villages, when she did claim them in 1867, were included in the sanad granted to the Nawab, and on that ground to reject her claim. Reference was made to Sykes' Compendium of Taluqdari law, pages 13 and 14, where the orders of Government as to the annexation and subsequent re-settlement of Oudh are set out. The object of that re-settlement was as far as possible to reinstate persons in the estates they

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held in 1856. The cases of *Hurdeo Bux* v. *Jowahir Singh* (1) and *Hasan Jafar* v. *Muhammad Askari* (2) were also referred to as laying down principles on which a taluqdar had become a trustee in respect of property settled on him by Government which had previous to the confiscation of titles in Oudh belonged to other persons besides himself; and those cases were relied on to show that the Nawab in 1859 had become a trustee of the villages in suit. The Court of the Judicial Commissioner was therefore in error in holding that having regard to the settlement proceedings the plaintiffs had failed to establish a good title to the villages and to possession of them; and that the suit was barred by limitation. Her suit so far as redemption was concerned was, it was admitted; barred by section 6 of Act No. I of 1869. Reference was made to the Limitation Act (XV of 1877) schedule II, article 144; Oudh Estates Act (I of 1869), sections 3, 4, 5 and 6; Sykes' Compendium of Taluqdari Law, page 168; and Papers relating to the Administration of Oudh (Ed. 1865) page 53, sections 17 and 19, and page 55, section 21. Under the circumstances the appellants were entitled to the relief they claimed or a portion of it.

Sir *R. Finlay, K. C.*, and *B. Dube* for the first respondent were not called on.

1910, *December 2nd*:—The judgement of their Lordships was delivered by Mr. AMEER ALI:—

This appeal arises out of a suit brought by the plaintiffs to recover possession of a half share in certain villages in the district of Sitapur, in Oudh. The villages in question belonged originally to one Qazi Muhammad Azhar, but some years prior to the annexation, either for convenience in the payment of Government demands or from motives of greater security, they appear to have been included, with the consent of Muhammad Azhar's widow, Wazir-un-nissa, in the ilaqa or estate of Nawab Munauwar-ud-daula, the ancestor of the principal defendant in this case. Thus in 1859, when the first settlement of the Province was carried out, the villages were found to be in the possession of Munauwar-ud-daula. On that occasion Wazir-un-nissa applied as

(1) (1879) L. R., 6 I. A., 161. (2) (1899) I. L. R., 26 Calc., 879; L. R., 26 I. A., 229.

malik or owner for settlement of the villages. The claim was resisted by the Nawab's agent and was ultimately dismissed. It is upon the orders passed by the extra Assistant Commissioner in the settlement proceedings, coupled with certain statements made by the Nawab's agent, that the present action is based. On the 21st of January, 1859, in answer to a question by the settlement officer as to his ground of objection to Wazir-un-nissa's claim, he stated as follows:—

"*A.*—This village has been included in our (my client's) ilaqa for the last seven or eight years, it neither being] mortgaged nor sold. But the arrears for eight (not clear in the original) years, regarding this village are still due to us (my client). Whenever the original zamindar, *i.e.*, the claimant, will pay off our (my client's) money he will get the village released. There is no other objection."

"*Q.*—Who mortgaged this village to you (your client)?

"*A.*—We (my client) got this village from the wife of Qazi Muhammad Azhar. We know nothing about the claim of Karamat-ul-lah."

And on the 19th of February, 1859, the extra Assistant Commissioner made the following order:—

"The objection of the agent of Nawab Munauwar-ud-daula is that she at her own instance got the villages included into his taluqa, hence she can get the villages released on payment of the arrears and *takavi*. As the facts of the case have been recorded in detail, therefore it is ordered that the *kabuliat* shall remain as usual in accordance with possession in the name of the agent of Nawab Munauwar-ud-daula. The claim of the Thakurs, who have been out of possession for 100 years, is dismissed. The *zamindari* right of the wife of Qazi Muhammad Azhar appears to be correct. She should file a separate application to have the money due to the agent to Nawab Munauwar-ud-daula settled by arbitration and have her villages released. Whenever the villages, on payment of the money due to Nawab Munauwar-ud-daula, are released, the mortgagees shall be at liberty to put forward their claim. Let the file be submitted to the Deputy Commissioner for perusal and approval."

As the proceedings related to a number of villages, similar orders appear to have been recorded on other dates.

On the 24th of February, 1859, the Deputy Commissioner, to whom the matter was submitted for approval, confirmed the settlement with Munauwar-ud-daula and dismissed Wazir-un-nissa's claim.

For the next eight years no action seems to have been taken in respect of the property in suit, but in 1867 when what is called the regular settlement of the Province was in progress, Wazir-un-nissa, in conjunction with her daughter Kutb-un-nissa, applied that

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the villages might be settled with her. Her claim was again resisted on the ground that they were included in the *sanad* granted by Government to the Nawab. Her application for settlement was accordingly dismissed on the 31st October, 1868. Two years later the two ladies applied for sub-settlement in respect of the villages in question, but as they could not prove possession within the period prescribed by law, their application was rejected on the 30th of August, 1871. Their rights, however, to *nankar* allowance and other dues were admitted and affirmed in proceedings taken about the same time.

In 1873 Wazir-un-nissa and Kutb-un-nissa transferred by a deed of gift their right and interest in the said villages to defendant No. 2, who is the son of another daughter of Muhammad Azhar. In 1898 the defendant No. 2 instituted a suit against the defendant Bakar Ali Khan to recover possession of those villages. His claim was dismissed by the first Court, but was compromised on appeal.

The present action is brought by the son and daughter of a brother of defendant No. 2, who claim to be entitled to a half share in the property in suit. Their contention is that the proceedings in 1859 constituted the ancestor of Bakar Ali Khan either a mortgagee or trustee on behalf of Muhammad Azhar's widow. The latter position was abandoned in the first Court where the case was tried, on the basis that the Nawab was a mortgagee or lien-holder. The Subordinate Judge upheld the plaintiffs' contention, and made a decree in their favour under section 92 of the Indian Transfer of Property Act (IV of 1882) for "redemption" on payment of a sum specified.

On appeal by the defendant Bakar Ali Khan, the Judicial Commissioners have held the suggestion that Government settled the properties with the Nawab as trustee for Wazir-un-nissa, or that he undertook to hold the same as trustee for her, to be untenable. On the question whether the plaintiffs were entitled to any relief on the hypothesis that he was a mortgagee, they held that section 6 of Act No. I of 1869 was a bar to the action. They accordingly dismissed the suit.

The plaintiffs have appealed to His Majesty in Council. It is conceded on their behalf that, having regard to the provisions

of section 6 of Act No. I of 1869, their claim for redemption cannot be sustained. But it is contended that, as the settlement with the Nawab was made subject to the rights of Wazir-un-nissa, who was declared entitled to recover possession of the villages on payment of the money due from her, the present suit comes strictly within the principle enunciated by this Board in *Hasan Jafar* v. *Muhammad Askari* (1). Their Lordships agree with the Judicial Commissioners in holding that the facts of the two cases are not at all analogous. In *Hasan Jafar* v. *Muhammad Askari* the settlement was effected with the person who took it on a distinct understanding which, in their Lordships' judgement, constituted him a trustee for his co-sharers who were not present at the time.

In the present case, the settlement officer's proceedings can bear no such meaning. The Nawab was in possession of the villages by virtue of some arrangement regarding the exact nature of which there is no evidence. At the time of settlement he or his agent opposed the claim of Wazir-un-nissa to have the properties settled with her, on the ground that he was entitled to remain in possession until the moneys he had disbursed on her account were paid off. That objection was upheld, and the settlement was made with the Nawab "in accordance with possession," and the lady was directed to proceed by separate application to get her property released by payment of the money due by her. In their Lordships' judgement there is no warrant for the contention that the correlative obligation that lay on the Nawab to release the property on payment of the money created a trust or constituted him a trustee for Wazir-un-nissa. No step appears to have been taken by her in compliance with the directions of the settlement officer; and the Nawab was allowed to remain in possession of the property without any attempt on her part to get it released. In 1867, when she applied for the regular settlement of the villages, an adverse title was distinctly set up on his behalf. From the date of the dismissal of her application in 1868 on the ground that they were included in his taluqdari sanad the Nawab's possession was adverse to her. The present suit was not instituted until 1905 and is thus clearly barred. The appeal, therefore, fails and must

(1) (1899) I. L. R., 26 Calc., 879; L. R., 26 I. A., 229.

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be dismissed with costs. And their Lordships will humbly advise His Majesty accordingly.

Appeal dismissed.

Solicitors for the appellants:—*T. L. Wilson and Co.*

Solicitors for the first respondent:—*Barrow, Rogers and Nevill.*

APPELLATE CIVIL.

1909
February 12.

Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Banerji.

RAM DIAL AND OTHERS (DEFENDANTS) *v.* NARPAT SINGH (PLAINTIFF). *

Act (Local) No. II of 1901 *(Agra Tenancy Act), section* 20 (2)—*Civil Procedure Code (*1882*), section* 266—*Occupancy holding—Mortgage of occupancy holding and appurtenant house—Mortgaged property not saleable.*

Where an occupancy tenant purported to mortgage (1) a grove, which was his occupancy holding, and (2) a house appurtenant to such holding, *Held* that having regard to section 20 (2) of the Agra Tenancy Act, 1901, and section 266 of the Code of Civil Procedure (1882) neither the grove nor the house could be sold in execution of a decree on the mortgage.

THIS was a suit for sale upon a mortgage, dated the 26th of September, 1898, executed by the defendants Nos. 1 to 3 in favour of the plaintiff. The mortgage bond provided for payment of the amount secured by it by instalments covering a period of twelve years. The plaintiff alleged that default had been made in the payment of one of the instalments, and claimed the amount of all the instalments remaining unpaid. He also prayed for the sale of the mortgaged property, which consisted of a grove, admittedly the occupancy holding of the mortgagors, and a dwelling house and inclosure, which they occupied as such occupancy tenants. The court of first instance (Munsif of Bulandshahr) granted the plaintiff a decree for only one of the instalments, in respect of which default had been made, and dismissed the remainder of the claim, including the claim for sale. The lower appellate court (Additional Subordinate Judge of Aligarh) modified the decree of the court of first instance and made a decree for the whole amount claimed. It upheld the first court's finding that the mortgaged grove was not liable to

* Second Appeal No. 145 of 1908, from a decree of Pitambar Joshi, Additional Subordinate Judge of Aligarh, dated the 13th of December, 1907, reversing a decree of Mubarak Husain, Munsif of Bulandshahr, dated the 31st of July, 1907.