

The sudder ameen dismissed the claim. The judge modified the decree of the sudder ameen, in a judgment which closes with the following words:— 'Under the above circumstances, the appellant has not proved the payment of the proportions of 2 *annas* of the purchase money; and his claim to 2 *annas*' portion, through that medium, is not established: therefore his appeal is dismissed, with costs of both courts. But owing to the wording of the *ikrarnaméh*, or agreement, the appellant is entitled to that portion in the village, which he precisely held previous to the sale of the village on account of arrears of revenue; hence the decision of the sudder ameen is confirmed, with a trifling amendment.'

This decree is evidently defective, inasmuch as it awards something indefinite, and cannot be carried into execution. The petitioner purchased the rights and interests in the village of one Sheodyal Ræe. He states that Sheodyal Ræe held a 2 *annas*' share of the village: the defendants that he had only a $\frac{1}{2}$ *anna* share. The judge is bound to enquire into this point; and, if he awards anything to the petitioner, to state specifically what the petitioner is to hold under the decree.

I admit the appeal; and remand the case to the judge, who will proceed in the manner above pointed out.

[17] *The 15th January, 1848.*

PRESENT: R. H. RATRAY, ESQ., *Judge.*

CASE NO. 366 OF 1847.

Regular Appeal from a decree passed by the 2d Principal Sudder Ameen of Tirhoot, Syud Ushruff Hosein, April 27th, 1847,

MUHA RAJA ROODUR SINGH, *Appellant (Defendant) v. MUDDUN GOPAL SINGH AND OTHERS, Respondents (Plaintiffs).*

[*Boundary dispute—Former decree adjudging the land to respondents—Evidence of boundary record.*

In a dispute about certain lands, the respondent's title was held established by a former decree adjudging certain lands in the same locality to his predecessors in title, and by a boundary record of 1770 A.D., the said lands being identified with the help of that record, with the suit lands. (*Vide* case No. 365 of 1847, *ante*, 4 S.D.A.R., 13.)

Wukeels of Appellant—Gholam Sufdar and J. G. Waller.

Wukeels of Respondents—Pursun Komar Thakur and Ameer Ali.

THIS suit was instituted by respondents, on the 23d October 1846, to recover from appellant 411 *biggahs*, 10 *biswahs* of land, belonging to *mouzah* Muhsoot, with mesne profits from August 4th, 1835 to October 21st, 1846: total estimate, for stamp, Compañy's rupees 7,191-7-3.

The appellant is the same individual that appealed in the case disposed of on the 13th instant, under No. 365 of 1847, with the same result. In the present suit, amongst other evidence and documents filed, was a decree of the 19th January 1824, adjudging to the respondents, or their then representatives, certain lands in the same locality with a *meerbundee*, or boundary record of 1770 (1177 H.). The principal sudder ameen visited the spot in person with these in his hands; and there was no doubt left of the present being the identical lands

before held, and decreed to those now claiming them. There was nothing produced on the part of appellant to shew any subsequent transfer, or right of present occupation; and a judgment was passed accordingly in favor of respondents. This, on the same grounds, is affirmed; with costs chargeable to appellant.

[18] *The 17th January, 1848.*

PRESENT: R. H. RATTRAY, ESQ., *Judge*, W. B. JACKSON, ESQ., *Temporary Judge*, AND E. CURRIE, ESQ., EXERCISING THE POWERS OF A JUDGE.

CASE NO. 199 OF 1847.

Regular Appeal from a decree passed by the Judge of Purneah, Mr. D. Pringle, February 27th, 1847.

SYUD MOHUMMUD REZZA AND SYUD AHMUD REZZA, *Appellants* (*Defendants with others*) v. SYUD INAIT REZZA *alias* SYUD MEERUN, *Respondent* (*Plaintiff*).

[*Mahomedan Law—Paternity—Son of slave girl—Acknowledgment by father.*

Acknowledgment of the plaintiff, as his son, by the deceased is sufficient proof of plaintiff's paternity; though plaintiff was born to a slave girl, he is entitled to an equal share with other sons born of any other wife.]

Wukeel of Appellants—Hamid Busool.

Wukeel of Respondent—None, nor present in person.

THIS suit was instituted by respondent, on the 23d June 1845, to recover from appellants a 4 *annas*' share of the estate of Syud Hosein Rezza, deceased, with mesne profits: the whole estimated at Company's rupees 1,83,932-6-1.

The following is the decree appealed against:—

This is a claim to succeed to a fourth share of the property, real and personal, of Syud Hosein Rezza, late proprietor of a moiety of *pergunnah* Soorjapore: laid with mesne profits, at 1,83,932 rupees, 6 *annas*, and 1 *pie*.

The plaint sets forth, that, on the 27th *Kartik* 1252, Syud Hosein Rezza, father of the plaintiff, (respondent) died, leaving, as heirs, his widow Soorut Jehan, and three sons, Mohummud Rezza, Ahmud Rezza and plaintiff, with one daughter, Kuneez Fatima; that on this, the defendants, with the exception to the last, having forcibly possessed themselves of the property and effects, plaintiff made application to the civil court under Act 19 of 1841, to be protected against such usurpation; in which though he duly established his title, his claim was unjustly set aside in favor of the above defendants: plaintiff and remaining defendant being referred to a regular suit. Since which time every unworthy means has been used for defeating plaintiff's just claim, which he thus brings forward, in accordance with the *feraz*, as established for such succession.

[19] To this, defendants, Mohummud Rezza and Ahmud Rezza, reply: *firstly*, that plaintiff is no son of the deceased; *secondly*, that they, with Soorut Jehan, his widow, are his only representatives, and, consequently, entitled to succeed him; who, it is added, neither possessed nor desired any consort save the ranee, so that it is impossible the plaintiff could have so sprung from him; *thirdly*, that this was determined by the enquiry, under Act 19 of 1841, in which only the usual order issued, referring parties dissatisfied to a regular suit; *fourthly*, that the schedule of the property, then made, shews its estimate by plaintiff