

[28] *The 11th January, 1858.*

PRESENT: C. B. TREVOR, G. LOCH AND H. V. BAYLEY, ESQRS.,
Officiating Judges.

CASE NO. 600 OF 1856.

Special Appeal from the decision of Moonshee Nazirooddeen Khan Bahadour, Additional Principal Sudder Ameer of Hooghly, dated 7th February 1855, affirming a decree of Baboo Doorgapersaud Roy, Sudder Ameer of that district, dated 16th February 1854.

GREENSHCHUNDER SINGH AND KIRTEENATH SINGH (*Plaintiffs*),
Appellants v. MUSST. SHEOSOONDREE DASEE AND OTHERS
(*Defendants*), *Respondents.*

[Stamp—Joint estate—Single kubooleut specifying distinct amounts payable to co-sharers in joint estate—Stamp paid as for total amount—Sufficiency of stamp—Kubooleut not to be treated as two kubooleuts.]

Where a ryotee tenure is joint and the zemindars hold their estate jointly, the payments to be made to each zemindar may be entered in one and the same kubooleut, without infraction of the stamp law.

Vakeel of Appellants—Baboo Kishenkishore Ghose.

Vakeel of Respondent, Musst. Sheosoondree—Boy Sreenath Sein.

THIS case was admitted to special appeal on the 2nd December 1856, under the following certificate recorded by Messrs. C. B. Trevor and E. A. Samuells:—

“Plaintiffs sued defendant for arrears of rent on a kubooleut executed by defendant. The kubooleut covenanted on the part of the defendant, to pay to each of the plaintiffs the following sums as rent, *viz.*, rupees 51-8 to Kishennath and rupees 45 to Grischunder.

“The lower courts nonsuited the plaintiffs. The judge holding that the entrance of two transactions of the nature on one paper was an evasion of the stamp laws according to which rupees 1-8 would be the proper duty leviable, *viz.*, rupee 1 on the kubooleut assenting to the payment of rupees 51-8 and 8 annas on that agreeing to the payment of rupees 45.

“We observe that the plaintiffs were joint sharers in one zemindaree and quite at liberty, under the principle laid down in Construction No. 1087, dated 13th February 1847, to enter the payment to be made, to each on one and the same kubooleut.

“We consequently admit the special appeal to try whether the order of nonsuit passed by the lower court should not be reversed.

“We direct that this case be put upon the special file, and be brought up without any unnecessary delay.”

JUDGMENT

As the ryotee tenure is joint, and the plaintiffs, zemindars, hold their estate by joint proprietary right, and the rent is for 96-4-7, [29] we do not consider there is any infraction of the stamp law. We accordingly reverse the order of nonsuit passed, by the lower courts, and remand the case to be tried on its merits.