

1942

*Megh Raj*  
v.  
*Allah Rakhiā.*

*Megh Raj.*  
v.  
*Bahadur.*  
Judgment

land". The appeals are accordingly dismissed, except to the extent indicated below.

In both the cases, the plaintiffs-mortgagees have been directed by the High Court to pay costs to the Punjab Government in that Court. As already stated, the Government intervened in this litigation by its own choice and no reasons have been suggested in the High Court's judgment nor was any shown before us to justify a departure from the usual rule that the intervener is not entitled to costs. The orders as to costs in both the cases are accordingly set aside. In this Court, the appellants will pay the costs of the Punjab Government in the first of these two appeals.

*Appeals dismissed.*

Agent for Appellants (in both cases): *Ganpat Rai.*

Agent for Respondent No. 5 (in both cases): *Tarachand Brijmohanlal.*

1942

*Mar. 23, 24.*

THE NORTH-WEST FRONTIER PROVINCE.

v.

SURAJ NARAIN ANAND

[SIR MAURICE GWYER, C. J., SIR SRINIVASA VARADACHARIAR  
AND SIR MUHAMMAD ZAFRULLA KHAN, J. J.]

*Federal Court—Leave to appeal to Privy Council—Practice—  
Government of India Act, 1935, s. 208 (b).*

The appellant having established to the satisfaction of the Court the right of members of the Police force to certain statutory safeguards, the existence of which the Provincial Government had denied, the Court was of the opinion that the Government should be content with the legal position thus determined and therefore refused leave to appeal to His Majesty in Council.

The fact that one of the parties is of the opinion that a decision of the Court was wrong is not itself a reason for granting leave to appeal to His Majesty in Council.

APPLICATION for leave to appeal to His Majesty in Council.

This was an application for leave to appeal under s. 208 (b) of the Constitution Act from the Judgment of the Court in *Suraj Narain Anand v. The North-West Frontier Province*, reported [1941] F. C. R. 37.

*Sardar Bahadur Raja Singh, A.-G. of the North-West Frontier Province (Kanwal Kishore Raizada with him) for the applicant.*

*Respondent in person.*

The Judgment of the Court was delivered by

GWYER C. J.—We are not disposed to give leave to appeal in this case. The appellant has succeeded in establishing to our satisfaction the right of members of the Police force to certain statutory safeguards, the existence of which was denied by the North-West Frontier Province Government. We think that the Government should be content with the legal position as established by the Judgment of this Court

and should not seek to prolong the litigation. The case might be different if any fundamental principle of far-reaching importance had been involved in our decision, or if great administrative inconvenience was likely to arise from it; but that is not so, and the fact that the Government think that our decision was wrong is not itself a reason for granting leave to appeal.

The application is dismissed.

*Application dismissed.*

Agent for Applicant: *B. Banerji.*

PUNJAB PROVINCE

v

DAULAT SINGH AND OTHERS.

[SIR MAURICE GWYER, C. J., SIR SRINIVASA VARADACHARIAR AND SIR JOHN BEAUMONT, JJ.]

*Punjab Alienation of Land Act, 1900 (Central Act No. XIII of 1900), and Punjab Alienation of Land (Second Amendment) Act 1938 (Punjab Act No. X of 1938)—Convention of s. 298 (1) of the Government of India Act, 1935, —Prohibition against holding or acquiring property on ground only of descent—Operation and validity of the Punjab Acts.*

° The Punjab Alienation of Land Act, 1900 (Central Act No. XIII of 1900), imposes certain restrictions on the "permanent alienation" of land by a member of "an agricultural tribe" in favour of persons who are not members of such tribes, empowering the Provincial Government to determine by notification "what bodies of persons in any district or group of districts are to be deemed agricultural tribes or groups of agricultural tribes for the purposes of the Act". Sub-section (3) of s. 2 defines "land" in wide terms for the purposes of the Act; ss. 6 to 13 contain certain provisions in respect of "temporary alienations" such as mortgages and leases; and s. 14 provides that any "permanent alienation" which under s. 3 cannot take effect as such until the sanction of the Deputy Commissioner is given thereto shall, until sanction is given or if sanction has been refused, take effect as a usufructuary mortgage for such term not exceeding 20 years and on such terms as the Deputy Commissioner may consider reasonable. According to the notifications issued by the Provincial Government from time to time, a person will not be included in an "agricultural tribe" unless (1) he is descended from members of particular tribes and (2) unless he resides or holds property in a particular place.

By s. 298 (1) of the Constitution Act, "no subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in British India".

By s. 298 (2), "nothing in this section shall affect the operation of any law which prohibits, either absolutely or subject to exceptions, the sale or mortgage of agricultural land situate in any particular area, and owned by a person belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area, to any person not belonging to any such class."

1942

*The North-West Frontier Province v. Suraj Narain Anand.*  
Judgment.

1942

*Mar. 23  
Apr. 23, 29;  
May 8.*