to do so, without regard to the consent of the parties. *In re The Strathgarry* (1).

1894

IN THE MATTER OF THE "FALLS OF ETTRICK."

Attorney for the "Falls of Ettrick:" Mr. *Carruthers.*

Attorneys for the "Resolute:" Messrs. *Sanderson & Co.*

Attorneys for the "Warren Hastings:" Messrs. *Morgan & Co.*

Attorney for the "Chusan:" Mr. *N. Watkins.*

C. S.

PRIVY COUNCIL.

CHOTEY NARAIN SINGH (DEFENDANT) *v.* RATAN KOER (PLAINTIFF.)
KARORPATI NARAIN SINGH AND ANOTHER (DEFENDANTS) *v.* RATAN KOER (PLAINTIFF.)

P. C.*
1894
Nov. 22, 23.
December 8.

[On appeal from the High Court at Calcutta.]

Evidence—Probabilities—Execution of will.

The fact of the execution of a will was disputed by a testator's relations. They impugned the will mainly on the theory of the improbability of its having been executed by him under the circumstances existing at the time, and in the presence of the witnesses alleged to have attested it. They admitted his intention to execute such a will, but contended that, having long deferred the execution, he had died without having effected it.

To outweigh the strong and satisfactory evidence upon which the affirmative of due execution rested, it would have been necessary that the improbability should have been cogent, and clearly made out. But, in their Lordship's opinion, it was neither the one nor the other, and was based on an exaggerated view. The suggested inferences against the will were not borne out; and, on the other hand, the testimony in support of it was good. The judgment of the High Court, maintaining the will, was affirmed.

APPEALS from a decree (1st September 1891), reversing a decree (16th February 1891) of the District Judge of Gaya.

The respondent on the 7th April 1890 petitioned the District Court of Gaya under the Probate and Administration Act (V of 1881) for probate of a will of the 23rd March 1890, alleged to have been made on that date by her grandfather, Ran Bahadur Singh, Raja of Tikari, who died on the 31st of that month. She

* *Present*: LORDS WATSON, HOBHOUSE and SHAND, and SIR R. COUCH.

(1) Weekly Notes, March 2, 1895, p. 42.

1894

CHOTEY NARAIN SINGH v. RATAN KOER.

asked for letters of administration with the will annexed to be granted to her as residuary legatee, and filed the will. She asked also for "khas itlanama," or special citation, to be served on the present appellants. The property, mainly ancestral, was valued at eleven lakhs.

The will was in favour of the respondent, the only daughter of the Raja's deceased son, Narain Singh, settling the property upon her. The appellants in both suits were described as collateral relations of the Raja. In the first suit, Chotey Narain Singh was a minor son of Kanhia Dyal Singh, and alleged himself to be the nearest *gotra* and heir. Karorpati Narain and Kamolapati Narain alleged themselves to be heirs, as being great-grandsons of the brother of the late Raja. Each of these filed his caveat, and then, within a few days, filed his petition, opposing the grant of probate, on the ground that the will had not been executed by the late Raja, and that the signature was forged.

In accordance with sections 73 and 83 of Act V of 1881 the petitioner for probate was made plaintiff, and the objectors to the grant were made defendants—Chotey Narain in the first suit and the others in the second. The issue was as to the actual execution by the Raja. The attesting witnesses, nine out of ten, were examined, and others also. At the hearing it was admitted that the Raja had for years had the intention of making a will under which his estate should go to his grand-daughter, who, by Hindu law, would not have been his heiress. The only question on the present appeal was whether he carried out that intention before his departure from his residence, or, having, as he had previously, delayed in the matter, had died without having given effect to it.

Mr. *R. B. Finlay*, *Q.C.*, and Mr. *R. V. Doyne*, appeared for the appellant in the first appeal.

Mr. *J. Graham*, *Q.C.*, and Mr. *J. H. A. Branson*, for the appellants in the other.

Mr. *R. B. Finlay*, *Q.C.*, and Mr. *J. Graham*, *Q.C.*, were heard.

Counsel for the respondents, Sir *R. Webster*, *Q.C.*, Sir *E. Clarke*, *Q.C.*, Mr. *J. T. Woodroffe*, and Mr. *C. W. Arathoon* were not called upon.

1894

CHOTEY NARAIN SINGH v. RATAN KOER.

Afterwards, on the 8th December, their Lordships' judgment was delivered by

LORD WATSON.—These appeals raise the same question in regard to the right of succession to the extensive estates of the late Raja Ran Bahadur Singh, of Tikari, in the district of Gaya, who died on the 31st March 1890. For several years before his death the Raja had been a widower. A son, the sole offspring of his marriage, had died, leaving a widow and a daughter, who is the respondent in both appeals.

Upon the 2nd April 1890, two days after the decease of her grandfather, the respondent presented an application to the District Judge of Gaya, setting forth that the deceased had on the 23rd March immediately preceding executed a will in her favour, in respect of all his moveable and immoveable properties; and, on the following day, the alleged will, which is the subject of the present controversy, was produced in Court at Gaya.

On the 7th April 1890, the respondent filed an application to the same Court for letters of administration with the will annexed. The granting of probate of the will was resisted by the appellants, who were first cousins, twice removed, of the Raja. They have, throughout this litigation, been recognised as his heirs *ab intestato*; and the ground of their objection to the respondent's application was that, in order to defeat their title, "Babu Maha Singh and Moonshi Sajiwan Lal, and other principal servants of the late Raja have, fraudulently and with a dishonest motive, set up a false and fabricated document purporting to be the will of the aforesaid deceased Raja Ran Bahadur Singh, and have caused the said Ratan Koer (*i.e.*, the respondent) to apply for probate of the alleged will."

Two issues were adjusted for the trial of the cause. The second, to which the argument of the appellant's Counsel was confined, is in these terms: "Whether the will, dated 23rd March last, propounded by the plaintiff, was duly executed by the late Raja Ran Bahadur Singh, of Tikari, and is genuine?" That issue was answered in the negative by the learned Judge of the District Court; and, on appeal to the High Court, his judgment was reversed by Petheram, C.J., and Beverley, J. The only

1894

CHOTEY NARAIN SINGH v. RATAN KOER.

question raised by the issue, upon which the Courts below came to opposite conclusions, is one of fact; and it may not be out of place to notice that the District Judge had not, in this case, the advantage, which he frequently possesses, of having seen the demeanour of the witnesses, the bulk of the evidence having been taken either on commission or before his predecessor.

There are some facts in the case which are not in dispute; and it may be convenient to advert to some of these before dealing with matters of controversy. The most important of them is thus stated by the District Judge: "As to the intention of Raja Ran Bahadur to make such a will as is propounded there can be no possible doubt." In pursuance of that intention, the Raja had a draft will prepared in the year 1885, and revised by eminent Counsel, which settled his entire estates upon his granddaughter and her heirs, certain villages (which were not specified in the draft) being assigned to her mother for maintenance. At that time the respondent was a minor; and it is common ground that the Raja kept the draft by him unexecuted, at his residence in Tikari, until the month of March 1890, when the respondent attained majority. She, her husband, and her mother lived in family with the Raja.

In the beginning of March 1890 the Raja was residing at Tikari. He remained there until the afternoon of the 23rd, when he went to Gaya; and on the 30th of the month he left Gaya, and went to Calcutta, where he died at 9-30 P.M. on the following day. His right to the rank of Raja had recently been recognized by the Government, but the *khillat*, or ceremony of installation, had not yet taken place. It does not appear that the precise date was fixed, but it had been arranged that a durbar was to be held at Tikari, and the Raja was looking forward to that occasion with much interest. When he left Tikari for the last time, his professed object in going to Gaya was to procure medical advice for his grandson-in-law, who accompanied him; and his visit to Calcutta was apparently prompted by the hope of there persuading the Lieutenant-Governor to preside, in person, at the approaching durbar. It is evident that the death of the Raja was unexpected, and that, at the time when he left home, or

indeed, until the afternoon of the 31st March, he had no suspicion that his end was so near.

The outline of the case disclosed in the respondent's evidence, with respect to the preparation and execution of the will propounded by her, is as follows: One Mahomed Fakhruddin, who then lived at Patna, went to Tikari on the 7th March 1890 during the festival of the Holi by the Raja's invitation. It it not disputed that he was the pleader employed by the Raja in 1885 to prepare the draft submitted to Counsel. After the festival was over, on the afternoon of the 8th March, he was asked by the Raja to make some alterations upon an Urdu translation of the revised draft of 1885, which he did under the Raja's directions. These innovations did not affect the substance of the document. They mainly consisted in altering the age of the respondent from 14 years or thereabouts to 18 years and 6 months, in deleting the appointment of an executor to administer the estates until she should attain majority, and in supplying the enumeration of the *mouzahs* which were to be assigned for maintenance to her mother. The altered draft was retained by the Raja; and, on the 10th March, Fakhruddin returned to Patna.

The next incident relating to the will is said to have occurred on Saturday, the 22nd March, when Dil Narain, a *mukhtar* employed by the Raja, came from Sahebgunge, which is a suburb of Gaya, to Tikari, in order to consult his employer with regard to the compromise of a suit. On that day the Raja gave him the amended draft prepared on the 8th by Fakhruddin, and instructed him to write out a fair copy. Dil Narain completed his task the same night, and next morning took the draft and the copy which he had made to the *shishmehal*, where he found the Raja sitting, attended by a number of his retainers. The copy had not been previously compared, and, in the presence and hearing of the Raja, Dil Narain read it aloud, whilst Kali Churn followed him with the draft. The Raja then appended his signature and seal to the document; and, at his request, ten persons, including Dil Narain and Kali Churn, attested its execution. With the exception of Kali Churn, the attesting witnesses were all in the service of the Raja. They were not summoned for the

1894

CHOTEY NARAIN SINGH v. RATAN KOER.

purpose of witnessing the execution of the will, but were selected by the Raja from the persons who happened to be in attendance. When the execution of the will was completed, the Raja went to the zenana, taking with him the instrument, which he then delivered to the respondent, and explained to her at the same time that its effect would be to make her the *malik* of the Raj at his death.

The account thus given by the respondent of what took place on the 8th, 22nd and 23rd March 1890, with reference to the drafting, extending and execution of the will which she propounds, is supported by a large and consistent body of evidence. The oral testimony adduced by her includes the depositions of every person alive who had taken a share, on these three days, in the preparation or execution of the will, and of many other witnesses who swear that they were present, and saw and heard what was done and said on one or more of these occasions. That evidence was very fully submitted and commented upon in the elaborate argument of the appellant's Counsel; and their Lordships, having examined it for themselves, are satisfied that it does not contain any discrepancies, or other internal features calculated to suggest doubts as to its credibility. It may be open to the observation, which is often applicable to evidence undoubtedly genuine, that the testimony of some witnesses ought to be received with greater caution than that of others; but, making due allowance for that circumstance, the evidence taken as a whole appears to their Lordships to be, upon every material point, consistent, and consistent in this sense, that it does not raise a suspicion that the witnesses are all telling the same concocted story.

The appellants have adduced no counter evidence directly bearing upon the occurrences of the 8th, 22nd and 23rd March spoken to by the witnesses for the respondent. The theory which they maintain in regard to the making of the will is shortly this: That the Raja, when he went to Calcutta on the 30th March, had not executed any will; that his deliberate intention was not to execute a will until the ceremony of the *khillat* took place; and that the will now propounded was fabricated by Maha Singh and Sajiwan Lal, two of the Raja's

confidential servants, with the assistance of others, between the morning of the 1st April, when news of the Raja's death reached Tikari, and the afternoon of the 3rd April, when the forged document was produced in Court.

In these circumstances it became absolutely necessary for the appellants to assert and show that the whole evidence of the respondent relating to the execution of the will in question is a tissue of falsehoods. In their argument addressed to this Board the appellants, whilst they maintained that the evidence as to what took place on the 22nd and 23rd March was a mass of perjury, did not extend the same imputation to the events of the 8th March. They contented themselves with saying that they did not admit that these events did actually occur. Their Lordships can only understand that contention to mean that, whilst they do not impute perjury to Fakhruddin, they maintain that this account of his altering the draft of 1885, in accordance with instructions from the Raja, is not sufficiently proved. To that conclusion their Lordships are unable to assent. It is nowhere disputed that the alterations upon the draft are in the handwriting of Fakhruddin; they contain internal evidence of the date about which they were made; and there is not a scintilla of proof tending to show that Fakhruddin ever had an opportunity of making them, after his visit to the Raja in the beginning of March 1890.

On the assumption that Fakhruddin did, in point of fact, alter the draft on the 8th of March as he alleges, the appellants argued that the circumstance was immaterial, because the Raja, at that time, entertained the intention, which he never departed from, of executing no will until a durbar was held for his investiture. If it were proved that the Raja held and acted upon the intention thus attributed to him, the alteration of the draft would certainly be immaterial. If that be not proved, the fact that the alterations were made, and the tenor of these alterations, would appear to their Lordships to indicate that the Raja contemplated the early execution of his will because his grand-daughter had attained her majority.

In the absence of direct oral testimony to support their case, the appellants' impeachment of the will, and of the evidence

1894

CHOTEY NARAIN SINGH v. RATAN KOER.

by which it is supported, was rested by their Counsel upon three grounds. The first of these was the extreme improbability of the Raja having executed his will, in the presence and with the testamentary attestation of his servants and inferiors. It was strenuously urged, as matter of notoriety (for there is no evidence upon the subject) that a Hindu gentleman of his rank, unless compelled by circumstances of sheer necessity, such as the fear of immediate dissolution, would never dream of proceeding to make his last will, without inviting the attendance of the *Rais*, or notables of the district. The second of these grounds was that, after the date when the alleged will is said to have been executed, the tenor of the Raja's communications with his friends and acquaintances shewed that he was still intestate ; and, the third, that it was the deliberate purpose of the Raja to postpone the execution of his will until the ceremony of the *khillat* was performed.

There appears to be no warrant whatever for affirming the existence of the second and third of these grounds, unless they be matters of fair inference from evidence led on both sides, as to what the Raja either said, or left unsaid, with regard to his will, during the period which elapsed between its alleged completion on the morning of the 23rd and his death on the evening of the 31st March. Their Lordships think it necessary to examine that evidence, which the appellants' Counsel admitted to be conflicting. Both parties to this appeal are agreed that the Raja intended to make a will before he died, ousting the succession of his heirs, and settling his whole estates upon the respondent and her mother, in terms of the instrument propounded. It is clear, on the one hand, that statements made by the Raja, after the date of that document, shewing his belief that he had not yet barred the succession of his legal heirs, and did not mean to do so before the holding of the durbar, to which he was looking forward with so much concern, would militate strongly against the inference that it had already been formally executed. On the other hand, it is equally clear that statements made by the Raja, during the same period, amounting to an acknowledgment that he had executed the document, and had delivered it as a completed and effectual

instrument to the respondent, would afford a strong corroboration of her oral testimony, which, according to the appellants, is perjured.

There are five witnesses for the respondent whose testimony on this point appears to their Lordships to be of considerable importance: (1) Dr. Hira Lal Dutt, Assistant Surgeon in the employment of the Government at Tikari, who, on the 23rd March, was called in professionally by the Raja, in the course of the day, shortly before his departure for Gaya; (2) Harku Singh, a zemindar and trader of independent means, who had an interview with the Raja, at Gaya on the following day; (3) Nund Lal, who has a net income from his zemindari of Rs. 1,800 a year, and about one lakh of rupees embarked in trade, who saw the Raja on the 27th or 28th March; (4) Khoob Lal Singh, a zemindar, having a third share of an estate, which yields an annual income of Rs. 25,000, who conversed with the Raja on the 24th and again on the 30th March; and (5) Abdul Hassan, a barrister-at-law, and registrar of the Presidency Small Cause Court at Calcutta, who had a conversation there with the Raja upon the morning of the 31st March. On each of these occasions, the Raja stated that he had executed his will before leaving Tikari; and upon the first four of them, he added the statement that, after its execution, he had delivered the instrument to the respondent. On the 23rd March he informed Dr. Hira Lal Dutt that the execution took place "on the morning of that day"; and on the 24th March he told Harku Singh that the signing, sealing and attestation of the will took place "yesterday." In his conversation with Abdul Hassan, the Raja made this further statement; after informing the witness that his will had been executed in favour of his grand-daughter, he said that "at the time of the ceremony he would get all the officials to sign it."

There appears to their Lordships to be no reasonable ground for suggesting that there is any ambiguity in the depositions of these witnesses, and no such suggestion was made in the course of the appellants' argument. If true, they establish that the Raja made statements to the effect that he had, before leaving home, formally executed a will in her favour, and had

1894

CHOTEY NARAIN SINGH v. RATAN KOER.

delivered it into the keeping of the respondent. The witnesses are persons of standing and respectability, unconnected with the Raja and his household, and having no interest in the issue of this litigation; and, in the opinion of their Lordships, nothing short of clear and cogent proof can justify the imputation which the appellants did not scruple to cast upon them that, after the death of the Raja, they deliberately consented to perjure themselves, in order to set up a will which they knew to have been forged by his servants.

Several other witnesses were examined with reference to the same point by the respondent; amongst them Dr. John Martin Coates, an intimate friend of the deceased He occupies the proud position of being the only witness for the respondent who is admitted by the appellants to be *omni suspicione major*. He attended the Raja twice on the 31st March, at 11 A.M. and again at 6 P.M. On neither of these occasions did the Raja make any reference to his will. On his first visit, the patient, though seriously unwell, was apparently inclined to talk. He answered questions about his illness, and had spoken first about his own dog, and then about the doctor's children, of whom he was fond, when the witness says, "finding that his speaking was with much difficulty and weakened, I forbade him to speak any more." On the second visit, the patient was dull, fast sinking, and silent. He merely sat up, and allowed the doctor "to examine him and listen to his lungs." Having regard to the intimacy which subsisted between him and the deceased, it was very proper that the respondent should examine Dr. Coates. His evidence shows that, upon his first visit, the Raja had not the opportunity, and, upon his second, had not the physical ability, to refer to the execution of a will. It cannot, in their Lordships' opinion, give the least colour to the inference suggested by the appellants that the Raja cannot have discussed the subject on the occasions deponed to by other witnesses, when he had the ability and the opportunity to do so. As to the remaining witnesses upon this point, the appellants have, in their cross-examination, laid some foundation for the suggestion that the language which the Raja addressed to them was ambiguous and might be taken to signify, either that the Raja had

executed a will, or had so far prepared a will that it was ready for execution.

To turn now to the evidence of the appellants. The witnesses upon whom they rely are six in number, being (1) Frank Hunter Barrow, Esq., Collector of Gaya; (2) Mahomed Wazir Ali Khan, a medical practitioner at Gaya; (3) Dr. Binode Krishna Bose, assistant surgeon at Gaya; (4) Dip Narain Singh, zemindar and cultivator in district Gaya; (5) Dasrath Singh, following the same occupation; and (6) Budri Narain Singh, a zemindar and cultivator in district Patna.

Mr. Barrow paid what was apparently an official visit to Tikari on the 23rd March. He was met on his arrival by the deceased, whom he visited, for a short period, on the same day. That was the last occasion on which he saw the Raja. He does not profess to have been an intimate acquaintance, and he does not recollect the topics of their conversation; but, to the best of his belief, the subject of the Raja's will was not referred to. Mahomed Wazir Ali Khan saw the Raja professionally three times during his stay at Gaya, and on none of these occasions did the Raja make mention of his will. Dr. Binode Krishna Bose attended the Raja professionally at Gaya on five or six occasions, but no reference was made to the will. Dip Narain Singh saw the Raja at Gaya on the 25th March, when nothing was said about the will; and Dasrath Singh saw him on the 25th and 30th, but heard nothing about the will.

Their Lordships see no reason to doubt that the statements made by these witnesses may be true; but, assuming them to be so, they do not warrant the inference that the statements made by the respondent's witnesses are false. They cannot assume that the Raja must necessarily have introduced the subject of his will into his conversation with every friend or acquaintance whom he happened to meet; and that he cannot possibly have used the language attributed to him by the respondent's witnesses because he did not mention the subject to Dr. Coates, or to the witnesses called by the appellants.

These observations do not apply to the testimony of the appellant's witness, Budri Narain Singh, which is deserving of special notice. He deposes that, on the 24th of March, he went

1894

CHOTEY NARAIN SINGH *v.* RATAN KOER.

to see the Raja at Gaya, and had a conversation with him; that no mention was made of a will, and that the Raja said: "If my grand-daughter had been a son, then my heart would have been glad. There is a curse on the Raj. After me my kingsmen will sit on the *guddi.*" That is a strange assertion. If it were true, it would prove that the Raja had determined not to make a will in favour of the respondent, and had resolved to allow his Raj to devolve upon his legal heirs. That is in entire contradiction to the case maintained by the appellants' here, as well as in the Courts below, which is that the deceased fully intended, from 1885 till the day of his death, to devise his estates by will to the respondent; that he had purposely delayed the execution of the will until he was formally invested with the dignity of Raja; and that his intention was frustrated by his sudden and unexpected death.

In that state of the evidence, their Lordships are unable to resist the conviction that on several occasions, after the morning of the 23rd March, the Raja made statements clearly evidencing his belief that he had duly executed the will in question, and the fact that he had delivered it as a completed instrument to his grand-daughter. In their opinion, the second ground relied on by the appellants is without foundation in fact.

The third ground, which assumes the settled intention of the Raja to have been that he would execute no will before the ceremony of the *khillat*, appears to their Lordships to be equally destitute of evidence to support it. In the appellants' evidence, there is not a single sentence bearing upon it. Seven of the respondent's witnesses testify to statements made by the Raja, on the morning of the 23rd March and subsequently, explaining what he meant to do on the occasion of the *khillat*. Two of them are testamentary witnesses; and their statement is, that after the will had been signed and sealed by the deceased, and attested in its present form, the Raja, before taking it to the zenana, said that, at the time of the *khillat*, when the officials were assembled, he would cause them to attest it also. The rest of these witnesses were not present at the execution of the will; but to four of them he made practically the same statement with regard to a written or executed will, which he had delivered as a completed instrument

to his grand-daughter, in order to secure her right of succession; and the deposition of the only other witness is that the Raja said: "I have a great wish to have the will which I have executed in favour of my daughter-in-law and my grand-daughter signed in that assembly (jalsa) by the Lieutenant-Governor and other officials." That is the whole evidence on the subject which is to be found within the four corners of the record; and it is simply impossible, upon any reasonable or legitimate construction, to derive from it the conclusion that the Raja, though intending to make, had not yet made a will, and that he meant to delay its execution until a durbar was held.

The whole argument addressed to their Lordships for the appellants comes, therefore, to depend upon their theory of improbability, which was accepted by the District Judge and rejected by the High Court. Laying out of view that theory, and the effect which ought to be given to it, the case of the respondent appears to their Lordships to be clearly and satisfactorily proved. The settled intention of the deceased to make a will in the precise terms of the instrument propounded is beyond dispute; there is a large and consistent body of testimony evidencing the preparation of the draft will, the making of a clean copy, the signing and sealing of that copy by the testator, and its attestation by the subscribing witnesses. There is consistent and uncontradicted testimony that the testator, as soon as these acts were completed, delivered the instrument, as a valid and legally executed instrument, to his legatee; and there is also evidence to the effect that he subsequently acknowledged that all these acts had been performed.

The theory of improbability remains to be considered; and the first observation which their Lordships have to make is, that in order to prevail against such evidence as has been adduced by the respondent in this case, an improbability must be clear and cogent. It must approach very nearly to, if it does not altogether constitute, an impossibility. To give effect to the argument pressed upon this Board by the appellants, which seems to have found favour in the Court of first instance, would be equivalent to holding that the will of a Hindu gentleman, attested by his own servants and dependants, must be held to be invalid, unless it is

1894

CHOTEY NARAIN SINGH *v.* RATAN KOER.

shown that the testator, at the time assigned for its execution, was placed in such circumstances that he could not secure the attendance of persons of a higher rank. That is a proposition which verges too closely on the absurd to be seriously entertained. There may be cases in which attestation by servants only is an important element to be taken into account in considering whether a will has been validly executed—cases, for example, in which there is reasonable ground for suspicion that the will is not the voluntary act of the testator, but has been procured by the undue influence of members of his household. This case does not, in the opinion of their Lordships, belong to that class. In their opinion, there is nothing either unreasonable or improbable in the supposition that the deceased Raja executed a will attested by his servants, for the purpose of securing the succession of his grand-daughter, entertaining, at the same time, the intention of having the will further attested by the leading officials present at the durbar, and of then publicly proclaiming the arrangements which he had already made with respect to the devolution of his Raj.

Their Lordships, for these reasons, have no hesitation in accepting the conclusion at which the High Court arrived, and in differing from the District Judge, who appears to them to have proceeded upon an exaggerated view of the improbabilities of the respondent's case. They will humbly advise Her Majesty in both appeals to affirm the judgment of the High Court. The appellants must bear the costs of these appeals.

Appeals dismissed.

Solicitors for the appellant Chotey Narain Singh : Messrs. *T. L. Wilson & Co.*

Solicitor for the appellants Karorpati Narain Singh and Kamalapati Narain Singh : Mr. *J. F. Watkins.*

Solicitor for the respondent : Mr. *S. G. Stevens.*

C. B.