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and if he is satisfied that unless proceedings be taken under s. 530, breach of the peace is imminent, he can institute proceedings afresh; but if he should deem it proper to record any fresh proceeding under s. 530, it will be necessary for him to ascertain clearly and define the particular villages or portions of villages to which the enquiry is to apply, excluding all those which are not in the immediate possession of either one party or the other.

APPELLATE CIVIL.

Before Mr. Justice L. S. Jackson and Mr. Justice McDonell.

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Nov. 28.

GUNGAPERSAD AND OTHERS (PLAINTIFFS) *v.* GOGUN SING (DEFENDANT).*

Registration—Dowl Fehrist—Act VIII of 1871.

A *dowl fehrist* being merely a memorandum by a zemindar's agent of the rates of rent agreed upon, and to which the tenants affix their signatures in token of such agreement, is not a contract, and does not require to be stamped or registered.

THIS was a suit for arrears of rent at a certain rate admittedly in excess of the rent previously paid by the defendant. In proof of his claim for the excess rate, the plaintiff filed a *dowl fehrist*, purporting to be a memorandum containing a list of the holdings and rates of rents of the ryots with their signatures appended. The plaintiff obtained a decree in the Munsif's Court. The lower Appellate Court, however, reversed the finding of the Munsif on the ground that the *dowl fehrist* which formed the base of the plaintiff's claim was not registered, and therefore not receivable in evidence.

The plaintiff preferred a special appeal to the High Court.

Baboo *Unnoda Pershad Banerjee* and Baboo *Neelmadhub Sen* for the appellants.

* Special Appeal, No. 2545 of 1876, against the decree of J. R. Hallett, Esq, Second Subordinate Judge of Bhagulpore, dated the 11th August 1876, reversing a decree of Moulvi Syed Khajeh Fukhruddin Hossain, Munsif of Monghyr, dated 25th February 1876.

Baboo *Kalee Kissen Sen* for the respondent.

The judgment of the Court was delivered by

JACKSON, J.—The question that arises in this special appeal is whether the lower Appellate Court is right in reversing the decree of the Court below, and apparently dismissing the suit on the ground of the reception of a document called *dowl fehrist*, which, in the opinion of the lower Appellate Court, was inadmissible, because it was not registered and not stamped. It is not discoverable from the judgment of the Munsiff that any objection had been taken to the *dowl* in the Court of first instance on that ground. The contest before him appears to have been whether the *dowl* was genuine or not,—that is to say, whether it recorded facts which were actually true. But the Judge holds that it was "nothing more or less than the record of the new rates of rent, and that the signatures of the ryots were taken to it in testimony of their agreement to cultivate the lands at the rate mentioned. It specified seven years as the period for which these holdings were to continue, and should therefore have been registered." Now it seems that the plaintiff when he filed his plaint, filed not only the jumma-wasil-bakees relating to the years in dispute, but at a later stage of the case a document was also filed, which, as Mr. Hallett says, "it pleased the plaintiff to call a *dowl fehrist*." Mr. Hallett does not say why the plaintiff should not have been pleased to call it a *dowl fehrist*, nor does he suggest any other appropriate name by which it ought to be called. But the use of it is to be found in the judgment of the Munsif. He says:—"From the testimony of the plaintiff's witnesses, who are trustworthy persons and proprietors of the mouza, as well as from that of the patwari, the writer of the *dowl*, it is fully proved that the *dowl* was prepared correctly and faithfully, and that it was accepted by all the tenants," and there was evidence which the Munsif accepted to show that rent had been collected from the ryots afterwards in accordance with that *dowl*. Therefore we understand the *dowl* was merely a memorandum or record by the zemindar's agents of the rent which had been settled between the zemindar and the ryots,

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and that the various ryots affixed their signatures to this *dowl* in testimony of their admission of the correctness of the jumma thereon recited as having been imposed on them. The *dowl* was not in itself a contract. It was no more a contract than are chittas or measurement papers, or what are called *suruthalic* papers, which are constantly signed by ryots, monduls, and other persons in testimony of their concurrence. It appears to us that there is nothing in the law to require a *dowl fehrist* to be either registered or stamped, nor, on the other hand, is it a document which could be regarded as binding or conclusive evidence of a contract. It is a matter of observation of course, and throws the burthen of explanation upon any ryot who having put his signature to it, afterwards disputes the facts which it recites. It may fairly be asked how came you to sign this document if you were not a consenting party to it. It seems to us, therefore, that the Judge was wrong in saying that this document was inadmissible, and that he ought to have taken it into consideration together with the other evidence. The case will be remanded to the lower Appellate Court accordingly.

Case remanded.

PRIVY COUNCIL.

P. C.* 1877 *June* 27, 28.

ASHGAR ALI AND OTHERS (PLAINTIFFS) *v.* DELROOS BANOO BEGUM (DEFENDANT.)

[On Appeal from the High Court of Judicature at Fort William in Bengal.]

Purdah Woman—Execution of Documents.

A Court, when dealing with the disposition of her property by a *purdah* woman, ought to be satisfied that the transaction was explained to her, and that she knew what she was doing; especially in a case where, without legal assistance, for no consideration, and without any equivalent, she has executed a document, written in a language she does not understand, which deprives her of all her property. In the case of a purdahnashin woman, who has no legal assistance, the ordinary presumption, that if a person of competent capacity signs a deed he understands the instrument to which he has affixed his name, does not arise.

* *Present*:—SIR J. W. COLVILE, SIR B. PEACOCK, SIR M. E. SMITH, and SIR R. P. COLLIER.