1912.

HARIDÁS NANABHAI v. VITHALDÁS KISANDÁS.

The decree is, therefore, reversed and the *darkhast* sent back to be disposed of according to law on the merits.

Costs hitherto incurred will be costs in the *darkhast*.

Decree reversed.

R. R.

PRIVY COUNCIL.*

RAGHOJIRAO SAHEB (DEFENDANT) *v.* LAKSHMANRAO SAHEB (PLAINTIFF).

* P. C. 1912. *June* 12, 13, 14, 18. *July* 18.

[On appeal from the High Court of Judicature at Bombay.]

Sanad, construction of—Grant creating title of Rájah of Deur in 1862—Meaning of "Lands attached to Deur"—Whether confined to lands in Sátára where Deur is situated, or extended to other lands in Bombay Presidency—Use of contemporanea expositio *in interpretation of documents—Jáglir, nature of tenure—Saranjám—Inám—Vatan—Hakk—Nature of evidence in interpreting documents—Alteration of records.*

The plaintiff and the defendant were brothers, descendants of the Bhonsle family (Rájáhs of Nágpur) whose possessions lapsed to the British Government in 1853. The object of the suit was to have it declared that the whole of the property in dispute (all situated in the Bombay Presidency) belonged to the two brothers in equal shares. The elder brother, the defendant (appellant), was Rájáh of Deur, and his defence was that he had succeeded to the property in suit under the law of primogeniture, as an appanage to the title of Rájáh conferred on him by a sanad issued by the Governor General, Lord Canning, in 1862. The question depended mainly on the construction of that sanad, in which the expression "lands attached to Deur" had been interpreted by the Courts in India as giving to the defenda only lands in the district of Sátára in which Deur is situated, the rest of the lands being declared to be partible between the two brothers.

Held by the Judicial Committee (reversing those decisions) that on the true construction of the sanad, a construction indicated by the history of the family and the other documentary evidence in the case, considered on the principle of *contemporanea expositio*, as a guide to its interpretation, the defendant was entitled to the whole of the property in the Bombay Presidency, and not only to that in Sátára, as an appanage to the title.

This was to be inferred from the official documents for 50 years, the language used in all of them being applicable to the possessions of the Rájahs in the Bombay

---

* *Present:*—LORD SHAW, SIR JOHN EDGE, and MR. AMEER ALI.

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

Presidency as a whole; from the intention of the Government to make suitable provision for the newly created title, and enable the holder to support it with becoming dignity which he could not do if less were given; and from the facts, as gathered from documents, that the Rájahs (of Nágpur) had properties in the Central Provinces as well as in the Bombay Presidency, and the footing on which the Government had all along proceeded during a long period was to allot the latter as an appanage to the title, and the former to be partitioned among the younger sons, which was done in 1887, 1893 and 1899.

As to the tenure on which the lands were held, the whole of the lands previous to the re-grant in 1862 were "jághir" lands, implying no grant of the soil, but a personal grant of the revenues to the grantee. A grant of such lands was personal, not hereditary, and resumable at pleasure. The grant being personal and temporary, the lands were necessarily impartible. The impartibility and unity which attached to personal service was not related to, but on the contrary was distinct from, the idea of succession by force of law to the impartible lands; they, therefore, could not be decided to be subject to the rule of primogeniture.

The Marátha equivalent for "jághir" was "saranjám" which came in course of time to be applied to the lands. "Saranjám" was not confined to the lands in Sátára as held by the lower Courts. The terms "saranjám," and "inám" were not mutually exclusive. "Inám" was a term of mere generic significance applicable to a Government grant as a whole. Rights in the Bombay Presidency were dealt with comprehensively, and as covered not by one name, but by all, or at least many of the names applicable to land and revenue rights as "inám," "saranjám," "vatan," hakk, &c. The argument to the effect that the Sátára property, and that alone, was treated as "saranjám," while the other properties were throughout treated as "inám," was contrary to what were admitted to have been the original entries in the Collector's books. No reliance, therefore, could be placed on such a denomination of those lands.

The original state of the records before the so-called "corrections" were made, and not with the doubtful and unexplained interlineations and alterations, was that to which a Court of law should have looked as evidence. Too restricted an application had been made by the Courts below of the term "the lands attached to Deur," which their Lordships were of opinion extended to the whole of the lands in suit, which was consequently dismissed.

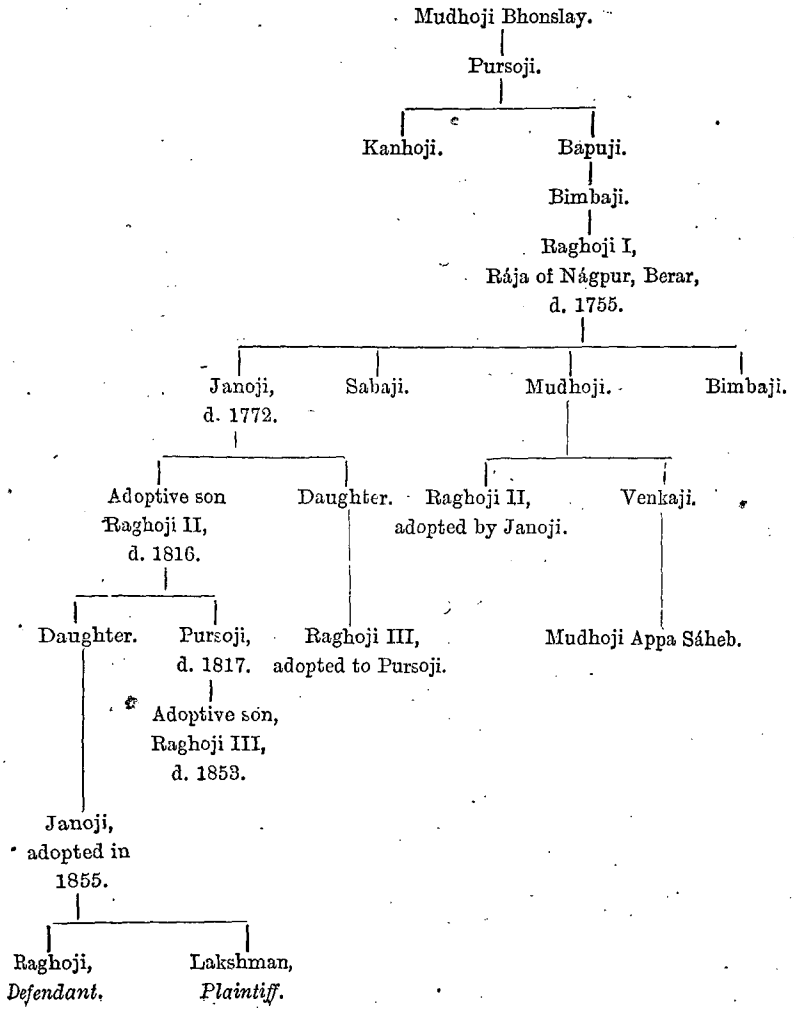
APPEAL from a decree (14th November 1907) of the High Court at Bombay, which affirmed a decree (7th December 1904) of the Subordinate Judge of Poona.

The suit which gave rise to this appeal was instituted on 22nd August 1900 by Lakshmanrao Sáheb, the present respondent, for partition of certain properties in the Ahmednagar, Poona, Sholápur and Sátára Districts of the Bombay Presidency, alleging that they constituted ancestral property of the family

partible equally between himself and his elder brother, the present appellant, whom he made defendant.

The defence of the appellant, who was in possession, was that all the properties had devolved upon him as Rája of Deur and head of the family and were impartible not only by custom, but also by reason of the nature of their tenure.

The parties are the only surviving male representatives of the Nágpur Branch of the Bhonsle family, and their pedigree so far as it was material was as follows :—



1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

Raja Janoji, the father of the parties, died on 5th December 1881 leaving him surviving three widows, three daughters, and two sons—the plaintiff and the defendant who were then minors, the elder of them, the defendant being only nine years old. At the time of Raja Janoji's death, there were heavy debts outstanding against the estate amounting to about Rs. 3,80,000 in addition to the balance of Rs. 32,000 of the loan of 5½ lacs of Rupees made by the British Government. This is shown by the report made by the Chief Commissioner of the Central Provinces to the Government of India, dated the 10th February 1882, in which he made proposals for the reduction and distribution of the amount of pension enjoyed by Raja Janoji among the surviving members of the family mentioned above. He also proposed the management of the estate by himself during the minority of the elder of the two sons of Raja Janoji, in order to enable him to take all possible measures of economy in the management of their family affairs with the view of liquidating the debts out of the surplus income and handing over the estate to the sons free from liabilities. These proposals made by the Chief Commissioner were sanctioned by the Government of India. But it appeared that the management of the property was subsequently transferred to the Court of Wards in the year 1885. The defendant having subsequently attained the age of majority the whole of the estate left by Raja Janoji was handed over to him in 1893—and he managed it till August 1895, when, on the plea of his own incapacity to manage his affairs, he put it back with the sanction of the Chief Commissioner of Nágpur, under the Court of Wards. But at that time ill-feeling had arisen between the two brothers owing to the defendant's denial of the plaintiff's right of participation in their father's estate to which the latter asserted his exclusive right on the ground that it was confirmed to him alone for the maintenance of his dignity as the head of the family. But subsequently the Government of India having by letter No. 3640-I. B., dated 24th September 1897, in reply to the defendant Raghoji's petition forwarded to them by the Chief Commissioner, declared the whole of the estate, including both lands and jewels, save Deur lands which were attached to the title of Raja of Deur conferred upon him personally as the head of

the family, to be partible according to Hindu Law and Maratha custom. The defendant would appear to have yielded to the plaintiff's demand of his share only in the estate in the Central Provinces, North-Western Provinces and Berar. Accordingly they agreed to have it divided by an arbitrator appointed by them, with the consent of the Deputy Commissioner Mr. Mayes and referred the matter to the arbitrator by the agreement dated 3rd May 1899. That estate had, it was admitted, been divided between the two brothers and the present dispute related to the remaining estate in the Bombay Presidency which was not included in the reference to arbitration as the defendant still persisted in denying the plaintiff's right to a share in that property on the plea, *inter alia*, that it, being an appanage of the title of Raja of Deur conferred upon him, was impartible.

The present suit was then brought as above stated, and the Subordinate Judge held that the defence was established with regard only to such of the properties as were situated in the district of Sátára; as to the rest of the properties he passed a decree in favour of the plaintiff for partition.

An appeal to the High Court was heard by JENKINS, C. J., and KNIGHT, J., who affirmed the decree of the Subordinate Judge. The judgment was as follows:—

"This is a suit brought by a cadet of the house of Nágpur Bhonsles to enforce against his elder brother, the titular Raja of Deur, partition of that part of the family estate which lies within the Bombay Presidency. It consists of grants and allowances derived from villages in the Poona, Sholápur and Ahmednagar Collectorates. The Deur *Saranjám* in the Sátára District, which also pertains to the family, was at first included in the plaint; but plaintiff has abandoned this portion of his claim, admitting that the *Saranjám* is the peculiar appanage of the hereditary title, and that it is not liable to partition. Defendant asserts that the other properties enumerated are also part of this appanage; and with this the whole present dispute is defined. All that the Court is required to ascertain is whether the Poona, Sholápur and Ahmednagar grants are part of the general family property and liable as such to partition among co-parceners, or whether they are included in the special *Saranjám* assigned by Government for the maintenance of the title, and are therefore impartible.

"Glancing for a moment at the question of jurisdiction which necessarily arises in claims of this character, we note that the learned Advocate General has admitted the competence of the Civil Courts to deal with this suit. By clause 16 (*a*) of Act II of 1863 the power is reserved to the Government to determine the conditions

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

of the devolution of estates granted on political tenure; and if in this case the Government had chosen to demur to our jurisdiction it might be that we should have had to decline to entertain the suit. But not only has the defendant waived this ground of defence, but Government themselves, as is apparent from the papers before us, have assented to the submission of the dispute to our decision, and have more particularly granted to plaintiff those certificates under the Pensions Act without which his suit could not lie. The case therefore resembles that of *Narayan Jagannath Dikshit* v. *Vasudev Vishnu Dikshit*(1) which like this, related to a grant in *saranjám*; and we need make no further allusion to the question of jurisdiction. The Government have preferred to leave the dispute to the decision of the Civil Courts, and it is for us therefore to construe the terms of the grant, gathering its meaning from the surrounding circumstances and the object with which the *sanad* was granted (*Narayan Jagannath Dikshit* v. *Vasudeo Vishnu Dikshit*).

"The history of the Nagpur Bhonsles is set forth in the clear and able judgment of the Subordinate Judge, Mr. Bhave(2). The head of the family was at one time the Raja of Nagpur, a title which he seems to have attained during the troublous times of the latter part of the 18th century, and which was extinguished by the British Government about the year 1853. From the older records produced in evidence it appears that none of the grants under which the property in the Bombay Presidency was acquired can be traced back beyond the year 1752. To deal with each section of them in turn: the documents noted in the margin show that in 1752 the villages of Nimbgaon and Jat Dévoli, in the Ahmednagar Collectorate, were held by the first Raghoji in *jaghir*, apparently under grants from the Nizám, and that the territory then being ceded to the Peshwa, the *jaghir* was resumed by the new Government and re-granted to him. He died in 1755 and in 1760 the estate was granted afresh to his eldest son Janoji (under Exhibit 407) who seems to have held it until his death in 1772. Here the history breaks off, and no documentary evidence is forthcoming until 1858, when the Inam Commissioner investigated the grants, and decided that there was nothing to suggest that the villages were ever held on an hereditary tenure (Exhibits 423, 425).

Exhibits 397, 407, 404 406, 405.

"Nextly as to the village of Jalalpur, also in Ahmednagar. The history is very similar to that of the preceding property except that the earliest paper on the record indicates that in 1774—Jánoji being dead—the village was held by Raghoji I's second son, Sabaji. (The Inam Commissioner, writing in 1858, (Exhibit 424) refers to the original *sanad*, not now before us, whereby the village was granted in *jaghir* to Sabaji in 1772, presumably just after Janoji's death.) The other old papers loosely refer to Raghoji I as the grantee—at a date when he had been dead 20 years or more and save that they speak of the grant as a *jaghir*, they possess no

Exhibits 259, 396, 398.

(1) (1890) 15 Bom. 247.

(2) See Sir W. Grant Duff's "History of the Marathas" (3rd Ed.) 168 *et seq* 9 and the "Report on the Territories of the Raja of Nagpur" (1827), by the British Resident, Mr. Richard Jenkins.—*Reporter's Note.*

special importance. The conclusions of the Inam Commissioner (Exhibit 424) with reference to this property were identical with those indicated in the last paragraph.

"Lastly as to Hingani in the Poona District. The two oldest papers, of 1763 and 1769 respectively, show the village as 'held by', Janoji, the nature of the tenure not being specified; but two others, of 1775, speak of the grant as a *jaghir* held by Raghoji, presumably meaning the original grantee. In 1796 the name again appears, when it may refer either to Raghoji I or to his grandson, the child of his third son Mudhoji who had died in 1788. The Inam Commissioner's report on this grant has not been laid before us.

Exhibits 403, 402, 396, 399, 398.

"The conclusions to be drawn from this portion of the evidence are simple and obvious. The documents produced are not so complete as those at the disposal of the Inam Commissioner in 1858, many important papers to which he refers, especially in connection with Jat Devoli, Nimbgaon, and Jalalpur, not having been put in evidence; and we do not feel at liberty to proceed upon his second-hand account of their contents. But on the materials before us we feel no hesitation in endorsing his conclusions as regards the three villages just named, and in framing similar conclusions for ourselves as regards the fourth. The grants were manifestly grants in *jaghir* of the ordinary character; that is to say, they were personal and not hereditary, and were resumable at pleasure. Being personal and temporary they were necessarily impartible. Long after the advent of the Maratha power, the Hindustani term *jaghir* continued to be applied to them, carrying with it its usual connotations and implying a grant not of the soil but of the revenue, and one personal to the grantee (*Gulabdas Jugjivandas* v. *Collector of Surat*(3)). At what date the term was replaced by its Maratha equivalent, *saranjam*, is not disclosed by the evidence; but there is nothing to suggest that the change was anything but a mere change in nomenclature. That the grant was never hereditary is the ordinary presumption from the fact that it was a grant in *jaghir* (*Gulabdas Jugjivandas* v. *Collector of Surat*(1), and *Ramchandra* v. *Venkatrao*(2)), and is moreover directly proved by the re-grant of Nimbgaon and Jat Devoli to Janoji in 1760 under the *sanad* (Exhibit 407). We do not think that the circumstance that the grant was generally, or even invariably, continued to the senior living male of the family is by itself adequate to rebut the presumption or discredit the inference. There is no direct evidence that the grant was ever intended to be hereditary, and there is much to suggest the contrary. That in those times of turmoil and disturbance the ruling power should for 40 or 50 years have secured the support of the local Chieftains by continuing their eldest males from time to time in the enjoyment of their military emoluments, is no more than natural; and in the later unsettled days that preceded the introduction of the British Power, it is no secure ground for inference that the descendants of the original grantees should have contrived to maintain their hold upon the revenues that their fathers had enjoyed. We must therefore discard the plea that the history of the *jaghirs* indicates an hereditary grant and the further suggestion that they descended by right of primogeniture must necessarily fall to the ground.

(1) (1878) 3 Bom. 186 : L. R. 6 I. A. 54.

(2) (1882) 6 Bom. 598.

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

"We are now in a position to approach the argument laid before us on behalf of the defendant-appellant by the learned Advocate General. After the extinction in 1853 of the title of Raja of Nagpur, and the proceedings of the Inam Commissioner in 1858, the whole of the grants were declared to have lapsed, save in so far as a portion of them was continued during the life-time of certain widows. Under the circumstances and on conditions which we will presently examine the estate was re-granted to the family by Government in 1861-62; and the learned Advocate General has contended that, in accordance with the well established principle which affirms that the continuance or revival of an ancient grant must be presumed to imply a continuance of its original terms, conditions, and limitations except in so far as they are explicitly or impliedly varied, the regrant must be deemed to be no more and no less than a renewal of the estate enjoyed by the Bhonsles in 1752—1796. The conclusions which we have just enunciated as to the character of that estate deprive the argument of much of its value: for the appellant's case largely rests upon the assumption that the original grant was a grant in heredity descending by primogeniture. However although it may not originally have been hereditary, there is no question but that it has become so under the terms of the modern regrant; and, spelling a rule of descent by primogeniture out of the earlier history of the grant, it is possible for the defendant to argue that the intention of the regrant was to recognise and affirm that rule, and to confine the estate to the senior male—or as he himself puts it, the senior branch,—of the family. The argument derives a more particular plausibility from the fact that when the estate was regranted, part of it was admittedly attended by this very condition of descent by primogeniture: and the question that we now have to determine is whether the properties in suit were included within that part.

"In 1858-60 as we have seen, the Government, acting upon the reports of the Inam Commissioner, declared the whole estate to have lapsed, the Poona and Sholápur properties being permitted to continue in the possession of certain widows until the death of the last survivor. This continuance had been sanctioned as a matter of grace, not of right. It happened however that one of the ladies, Bakabai, had rendered valuable services to the Government during the Mutiny: and in recognition of those services the Government was pleased to regrant the whole estate to the family and to revive the royal title, the latter dignity however deriving not from the old Chieftaincy of Nagpur, but from a village in the Sátára District called Deur. With the recognition of the title, Government specially allotted an estate called *the Deur lands*, or the *lands of* or *attached to Deur*, to form the territorial basis of the Rajaship and to supply a permanent appanage to its dignity. It is the case for the appellant that this special estate comprised and included the whole of the properties situate within the Bombay Presidency.

"It is necessary, we think, to lay particular stress upon the terms of the new grant, and to note the essential differences that distinguished it from the original. The latter was intended, as all *jaghirs* were, rather for services to be rendered than for services already rendered; it was personal, it was not hereditary, and it was not, so far as the papers before us enable us to speak, accompanied by the bestowal or recognition of any royal title. The new grant was for the reward of special and recent services, and bore no reference to the future; it was a grant to the heirs

of the then Chief as well as to himself, and it conferred upon him the hereditary title of Raja. These are the words in which it was embodied (Exhibit 481): 'Whereas it has been satisfactorily proved that the Maharani Bakabai Saheb rendered great assistance to the British Government at the time of the Mutiny, the Governor General is pleased to confer on this good occasion upon the Raja himself and his heirs, begotten or adopted, in perpetuity the title of Raja Bahadur of Deur, and to release to himself and his heirs and successors in perpetuity the lands attached to Deur free of revenue.'

"This document bears date in 1861. It was confirmed by the Secretary of State in the following terms in 1862 (Exhibit 409): 'The continuance to the present representative of the Bhonsla family of the *vatans* and *saranjams* held by them in the Bombay Presidency notwithstanding the fact that under rules in force they would have lapsed to the State, is a measure which will be gratifying to this loyal family, and one which I have much pleasure in confirming.'

"The grant, however, seems to have left room for doubt as to its precise extent, more especially, we may conjecture, in reference to the estates previously continued to the widows in Poona and Sholápur; for in 1864 the Government of India replied to an inquiry from the local Government in the following terms (Exhibit 33): 'I am directed to reply to your letter No. 4408, dated 9th December last, to inform you that His Excellency the Governor in Council of Bombay is right in supposing that *all* the possessions specified in the list accompanying the memorandum from Revenue Commissioner, Southern Division, No. 3726, dated 4th November last, are to be continued hereditarily to Janoji Bhonsle and his heirs without further inquiry.'

"The emphasis is evidently on the *all*. The particular importance of this document lies in its reference to a certain list. This list evidently must have been—it has been conceded before us that it was—the list drawn up by the Inam Commissioner in 1858, now in evidence as Exhibit 437. It is a 'statement showing every alienation of revenue entered in the public accounts in the name of His Highness Raghoji Bhonsle, the late Raja of Nagpur,' and its special significance lies in the fact that of the eleven properties that it contains, one, and one only, the Satara Estate of Deur, is entered as held on *saranjam* tenure, while all the others are shown as *inams* or *vatans*.

"Now these are the only documents of prime authority relating to the grant, and they must be read as a whole. The third, which is evidently explanatory and definitive of the other two, we must regard as conclusive both as to the extent and as to the character of the regrant. It explicitly proceeds upon the basis of the list, Exhibit 437, and, in the absence of all evidence to the contrary, it must be taken to continue the *inams* therein detailed in the specific character assigned to each by the list. The *saranjam* is continued as *saranjam*, the *inam* as *inam*, the *vatan* as *vatan*: save that all are rendered hereditary, there is nothing to indicate or suggest a change in the character of any. From this it must follow that it was the Satara property alone that was regranted on the impartible tenure.

"Counsel for the defendant has taken exception to the evidentiary value of the entries in this list, so far as they define the character of the tenures, by pointing

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

out that there is nothing to show that the family was represented at the inquiries before the Inám Commissioner, and that even if it were, it was to the interest of the then representatives, the widows, to get the properties entered as simple *inám* or *vatan*, whatever their true character may have been. The argument must stand *quantum valeat*; but while on the one hand we have had no difficulty in ascertaining the precise character of the original grants, it is manifest, on the other, that that character was essentially changed at the time of the regrant. This we have laboured to demonstrate in the preceding analysis and we are forced to the conclusion already enunciated that the regrant was deliberately intended to proceed upon, and in the terms of, the Inám Commissioner's list.

"Minor corroborative evidence of this conclusion is forthcoming in Exhibit 442, an extract from the Administration Report of the Central Provinces addressed to the Supreme Government in 1862, by the then Chief Commissioner. This speaks of the 'lands of Deur in the Sátára District of the Bombay Presidency which had been hereditary in the Bhonsle family for 125 years,' as conferred on Janoji and his heirs in perpetuity with the title of the Raja of Deur; and it leaves no doubt that the construction put upon the regrant very shortly after its date by the highest official in the Central Provinces was identical with that which we now attach to it. The probative value of what is at the most an expression of contemporary authoritative opinion is no doubt small, and we lay but little stress upon it; but the opinion is one which was formally asserted in an official communication to the Supreme Government before the regrant was a year old, and it was never corrected or contradicted.

"We may now turn to the crucial point of the case: what is the meaning of the phrase *the Deur lands* or *the lands of* or, *attached to Deur*? It is agreed on both sides that it is these lands that form the special appanage of the Rajaship, and that they must therefore be impartible; and the suit has been brought practically to ascertain whether the phrase comprises the whole of the several estates situate in the Bombay Presidency, or only that portion which lies within the Sátára District. The defendant contends for the former interpretation, the plaintiff for the latter.

"The point is virtually decided by the evidence that we have already discussed; for the sanad read with the list Exhibit 437 shows that it was the Sátára lands alone that were regranted as *Saranjám*, and the 'Deur lands' can therefore mean nothing but the lands within that district. This indeed is the natural construction to put upon the phrase; and that it is the correct one is a matter on which the evidence to which we will now refer can leave no reasonable doubt.

"The *Saranjám* detailed in the lists consists of the village of Deur, certain cash payments deriving from the village of Dahigaon, and some lands lying in the village of Palsi; all in the Sátára District. The phrase therfore comprises more than the actual lands of Deur village itself; but the list affords no warrant for extending it to properties lying in other districts. Whatever difficulty might be felt in defining or explaining its meaning is set at rest by the evidence of the *Kamgar* or steward of the estate, called as witness Exhibit 225 for the plaintiff. Premising that he manages the properties in all the four Bombay districts on behalf of the Raja, he proceeds: 'The whole of the property is divided into two *talukas* called Devinimbgaon and Deur. The properties in the Ahmednagar, Poona

and Sholápur Districts form the *táluka* of Devinimbgaon, and the property in the Sátára District forms the Deur *táluka*.' From other passages in his evidence it appears that the estate accounts are separately kept for each *táluka*, and he mentions that he has two *naibs* or deputies, one living at Devinimbgaon and the other at Deur. He was himself *Naib Kamgar* at Devinimbgaon for some years. Now the credit and impartiality of this witness were not shaken—indeed, were not attacked—in cross-examination, and have not been impugned in argument before us: and we must regard his evidence as conclusive. We find no difficulty in accepting the explanation (though it does not appear explicitly on the evidence) that Deur was one of the old tálukas of the district under Moglai or Marátha rule; and the steward's evidence shows that the name has persisted up to the present day as a general term for that portion of the Bhonsla estate lying within the Sátára District. We are thus afforded an interpretation of the phrase no less adequate than natural, one which consists with the documentary evidence, and which spares us the necessity of straining the expression '*Deur lands*' or '*lands of Deur*' so as to include properties lying in other districts, some at least of which could never have formed part of the ancient táluka. Although, therefore, the planitiff's own case involves the admission that the disputed phrase is not to be construed with rigidity, the '*lands of Deur*' admittedly meaning more than the lands of Deur itself, there is no real difficulty in ascertaining its exact signification; and that, we must conclude, is the signification for which the plaintiff has contended.

"There is little left to add. We have been content to approach the case on its plain merits, and we have had no occasion to refer to the argument pressed upon us on behalf of the plaintiff—an argument whose force cannot be gainsaid—that the onus of proving the impartibility of the estate rests heavily upon the defendant, and that he has done little to discharge it. If the evidence were meagre or uncertain it might have been necessary to have recourse to this proposition before a valid conclusion could be attained; but the plaintiff can afford to dispense with its assistance. For it is clearly established that the original grant was a personal grant in jághir, that the regrant did not so much continue this grant as substitute for it a family hereditary grant partly in *saranjám*, and partly in *inám* and *Vatan*; and that of the Bombay properties only those lying within the Sátára District were regranted in *saranjám*.

"We have not thought it necessary to allude to the official letters and other documents of recent date that have been put in evidence. Their evidentiary value, if they have any at all, is so exiguous as to be negligible, and we may content ourselves with the broad assertion that with one exception they harmonise with our conclusions. No separate argument was addressed to us on the subject of the *vatans*, regarding which there seemes to be little evidence available. It was agreed that they should follow the decision on the main question. The other points raised in the lower Court, including that of estoppel, were not pressed; and the plaintiff abandoned his cross-objection. The decree is confirmed with costs."

On this appeal,

Kenworthy Brown, *G. R. Lowndes* and *G. P. Dick* for the appellant contended that the lands in suit were impartible

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

both by custom, and by reason of the nature of their tenure; and they constituted (together with small estates in Sátára which are not now in question) the appanage of the Rája of Deur, a title of which the appellant was the present holder, and were consequently impartible. Under the circumstances of the case there was no presumption that the lands in dispute were not heritable up to 1853 when Raghoji III died; the presumption, it was submitted, was that they were heritable. Reference was made to the case of *Gulabdas Jugjivandas* v. *Collector of Surat*[1], which it was contended did not govern the case on that point as the High Court had wrongly decided. On that part of the case the Subordinate Judge was right on the evidence and under the circumstances of the case in holding that the lands in question were heritable up to 1853, and the High Court had rightly held that they were impartible. They were also by custom subject to the law of primogeniture. On the regrant by the British Government the lands which were previously impartible did not become the partible lands of the grantee's family. The lands were held on the old conditions unless any change in their tenure was expressly made. It was not shown from the "List" of the Inam Commissioner or by any admissible evidence that the intention of the re-grant was that the lands granted should be partible. An "inam" was in Bombay a permanent grant. The grant of 1862 had been wrongly interpreted by the High Court. Reference was made to *Krishnarav Ganesh* v. *Rangrav*[2]: *Baboo Beer Pertab Sahee* v. *Maharajah Rajender Pertab Sahee*[3]: *Muttu Vaduganadha Tevar* v. *Dora Singha Tevar*[4]: The Inam Commissioners Act (XI of 1852) and Rules 3 and 6 of the Rules made under that Act: and *Shekh Sultan Sani* v. *Shekh Ajmodin*[5].

De Gruyther K. C., *Ross* and *G. K. Gadgil* for the respondent contended that the lands in dispute were, as had been concurrently held by the Subordinate Judge and by the High

(1) (1878) 3 Bom. 186: L. R. 6 I. A. 54.

(2) (1867) 4 Bom. H. C. R. (A. C. J.) 1 (7, 9).

(3) (1867) 12 Moo. I. A. 1 (35).

(4) (1881) 3 Mad. 290: L. R. 8 I. A. 99.

(5) (1892) 17 Bom. 431: L. R. 20 I. A. 50.

Court, partible and not impartible property, and therefore did not form part of the "lands attached to Deur," referred to in the Sanad of 10th October 1861, which had been rightly construed by both the lower Courts. The question was what were the "lands attached to Deur." "Saranjam," "Inam," and "Watan" were all separate and distinct tenures. "Mokasa" had the same meaning as "Saranjam." Reference was made to *Shekh Sultan Sani* v. *Shekh Ajmodin*(1): Aitchison's Treaties (1st Ed. 1863), Vol. III, pages 93, 94: Inam Commissioners Act (XI of 1852): Bombay Act II of 1863: *Vinayak* v. *Gopal Hari*(2) showing lands granted on "inam" tenure by the Peishwa were considered to be liable to partition: *Adrishappa* v. *Gurushidappa*(3): Nairne's Handbook of Revenue for the use of Revenue Officers, page 490: Rules revised by Government of Bombay in Bombay Gazette, 19th May 1898: *Muttu Vaduganadha Tevar* v. *Dora Singha Tevar*(4): *Gopal Hari* v. *Ramakant*(5): *Krishnarav Ganseh* v. *Rangrav*(6) *Ramchandra* v. *Venkatrao*(7): *Ramkrishnarao* v. *Nanarao*(8): *Gulabdas Jugjivandas* v. *Collector of Surat*(9): Land system of British India by B. H. Baden Powell, Vol. III, Book IV (Ed. 1892), pages 299, 303: and Land Revenue in British India, by the same author (Ed. 1853).

Kenworthy Brown replied.

1912, July 18th:—The judgment of their Lordships was delivered by—

LORD SHAW:—This appeal is made against a decree of the High Court of Justice at Bombay, dated the 14th November 1907, which affirmed a decree of the Subordinate Court of Poona, dated the 7th December 1904. The plaintiff (respondent)

(1) (1892) 17 Bom. 431: L. R. 20 I. A. 50.
(2) (1903) 27 Bom. 353 (356, 357): L. R. 30 I. A. 77 (78, 79).
(3) (1880) 4 Bom. 494: L. R. 7 I. A. 162.
(4) (1881) 3 Mad. 290: L. R. 8 I. A. 99.
(5) (1896) 21 Bom. 458 (460).
(6) (1867) 4 Bom. H. C. R. (A. C. J.) 1 (2, 4—9, 11, 13, 17, 21, 22).
(7) (1882) 6 Bom. 598.
(8) (1903) 5 Bom. L. R. 983.
(9) (1878) 3 Bom. 186: L. R. 6 I. A. 54.

1912.

RAGHOJIRAO SAHEB v. LAKSUMANRAO SAHEB.

and the defendant (appellant) are brothers. The main object of the suit is contained in the first prayer of the plaint, and is to have it declared that the whole of the immoveable and moveable estate mentioned in the schedule annexed to the plaint belongs to these two brothers as equal owners thereof. The elder brother, the defendant-appellant, is Rájáh of Deur. And the claim is resisted by him upon the ground that the various properties referred to had been succeeded to by him, under the law of primogeniture, as an appanage to the title of Rájáh conferred upon him by a Sanad issued under the hand of the Governor General, Earl Canning, in the year 1862.

The properties are situated in the districts of Poona, Ahmednagar, Sátára and Sholápur, all in the Presidency of Bombay. They include five *mouzahs* or villages, together with various *vatans, hakks,* and cash allowances, set forth in the schedule. It was matter of agreement in the High Court that the main question in the case should be treated as one applicable to the villages or *mouzahs,* and that when the question of partibility or impartibility should be settled in regard to them, the remaining items in the schedule should follow that decision.

Of the *mouzahs* mentioned, that of Deur is situated in Sátára. In the course of the proceedings it has been admitted that the property in the Sátára District is an appanage of the title of the Rájáh of Deur, is impartible, and is succeeded to along with the title and position of Rájáh accordingly, that is to say, by the rule of primogeniture. It is submitted by the appellant that the same result should have followed with regard to the rest of the properties in dispute. The question in the case is whether that submission is correct.

The whole of the properties are, as stated, within the Bombay Presidency. This fact throws light upon the construction of many of the official minutes, despatches, entries and orders, referred to in the case, and appears to be one of cogency. It can hardly be denied that the language used in all these official documents for a period of about fifty years is at least *ex facie*

language applicable to the possession of the Rájáh in the Bombay Presidency as a whole.

Points of great historical interest are naturally suggested by a review of the pedigree put in by the parties. The records of the Bhonsle family—the Rajahs of Nagpur—are bound up during a long period of time with many stirring adventures and achievements in the course of the Marátha ascendancy and its decline. The position of the family was one of great note from the middle of the 17th, and during the whole course of the 18th, and the first half of the 19th centuries. The possessions of these Rájáhs were extensive, stretching throughout many portions of the Central Provices, the North-West Provinces and Berar, as well as of the Bombay Presidency.

The last of the Rájáhs of Nágpur, Raghoji III, held the title, estates and rights from the year 1817 till his death in 1853. The forfeiture of 1818 followed by the treaty and free gift of 1826 need not be referred to, the facts of ownership and possession being substantially as stated. He died without issue. He himself was an adoptive son of one Pursoji Bhonsle, and with his death in these circumstances the Bhonsle dynasty of Nágpur came to an end. It is an admission of parties that in that year the title of Rájáh of Nágpur lapsed and that the estates and rights of the deceased Raghoji III fell to the British Government.

The widows of Raghoji, however, adopted Janoji in the year 1855. He survived till 1881, leaving behind him the two sons who are contestants in the present case.

During the Mutiny of 1857 a female member of the family, the Rani Baka Bai, appears to have powerfully and loyally assisted the British cause and to have rendered services worthy of official recognition. She was the widow of a former Rájáh of Nágpur, namely, Raghoji II., and she was anxious for the continuance in the family of the title of Rájáh and the attachment to it of such property as would mark and maintain its dignity. The Government of the day declined to restore the Nágpur title, but was willing to create—by Sanad issuing from the Governor General—a fresh Rájáhship. The title

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

pitched upon was derived from Deur, a small village in the Sátára District of the Bombay Provinces. It is manifest from the official documents issued that it was one of the objects of the Government to make such a provision—in land and revenues accompanying the title—as, though small and unimportant if viewed relatively to the ancient Nágpur possessions, would still be sufficient to gratify, so far, the desire of Baka Bai, and to support in becoming dignity the newly created title.

It is accordingly important to note what were the exact terms of the Sanad under the hand of Earl Canning, Governor General. It is dated the 10th October 1861. The Subordinate Judge of Poona has closely examined it and the translations. As stated by the learned Judge, it is written in Urdu, and its text is as follows, it being super-signed by Lord Canning and bearing the seal of the Government of India :—

"Sanad granted by His Excellency the Viceroy and the Governor General of India in Council to Rája Janoji Bhonsle Bahádur conferring upon him the title of Rája Bahádur of Deur.

"Whereas it has been proved and verified that Maharani Bakabai Saheb was loyal towards the noble British Government and the good behaviour and loyalty of that family during the Mutiny has been proved and verified; in recognition thereof the title of Rája Bahádur of Deur together with the lands attached to Deur has been conferred upon and given on this auspicious occasion to that Meherbán himself and his heirs in succession whether begotten or adopted in perpetuity and the Sanad thereof has been executed. It must be deemed incumbent that in return of this gift and kindness you will always remain loyal to the noble British Government and you will look upon this Sanad a perfect one."

The point of the case is: What meaning is to be given to the words "lands attached to Deur"? Are these lands limited to the village of Deur itself? Or do they extend to the possessions in the Sátára District? Or do they cover the possessions as a whole which lay within the Presidency of Bombay?

Neither party to the case maintains that the grant should be confined to the lands in the village of Deur alone; and it is conceded by the respondent that other lands in the Sátára District must be held to be included. This concession is

perfectly reasonable, for otherwise the lands attached to Deur, if confined to the village of Deur itself, would reduce the maintenance of the dignity of the Rájáh almost to a shadow.

But the mere inclusion of all the Sátára lands also reaches a very inconsiderable total. These lands are worth over Rs. 3,000 per annum. The villages, lands, and others, in the whole of the Bombay Presidency, mentioned in the plaint, yield a total revenue of over Rs. 12,000, and it would appear from this, that if all these lands were dealt with as lands which were attached to Deur by the Sanad, they would form taken together a fund for the maintenance of the dignity of the Rájáh which could not be said to be over ample. But if the lands attached to Deur are confined to those in the Sátára District alone, then the result of such a construction of the Sanad is to set up this Rájáh with an appanage of about Rs. 3,000 per annum for the support of his dignity and title. Their Lordships are not surprised to learn that during all the years since the Sanad, in many of which the Court of Wards have had possession, and in all of which the Government have had cognizance of the facts, no one apparently until the institution of this suit ever thought of maintaining that the possessions attached to the position of Rájáh were of the slender proportions described. Upon the contrary, they have throughout been dealt with as those within the Bombay Presidency at large.

As mentioned, the properties of the former Rájáhs were situated not only in the Bombay Presidency, in which their extent was very limited, but in the Central Provinces and Berar. A large donation or stipend of Rs. 1,20,000 per annum was enjoyed by the late Rájáh Janoji at the time of his death. After that event, in 1881, the Government of the day had to consider the question of the allowances to be made to his successors, namely, his two sons. A pension amounting to Rs. 90,000 was fixed, and in the despatch of the 10th February 1882, by the Assistant Secretary to the Chief Commissioner, the grounds are explained of the distribution of this pension. "The two sons," it is said, "will succeed to the landed property of the late Rájáh in the Central Provinces and Berar and to

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

the personalty in equal shares. This is in accordance with the Hindu Law and Marátha custom. The elder son will succeed to the title of Rájáh of Deur and to the estate in the Bombay Presidency, which goes with that title. The value of this estate is, however, comparatively small, the bulk of the landed property of the late Rájáh being situated in the Central Provinces and Berar. There will not, therefore, be much difference in the private income of the two sons should they hereafter separate." This passage is quoted as an indication of the view which is repeatedly exhibited in the documents with regard to the attitude of the Government, from whom the grant by way of Sanad proceeded. This interpretation was undoubtedly that the Rájáh of Deur should take the estates in the Bombay Presidency, which were comparatively small, as an appanage of the title; that these should accordingly follow the rule of primogeniture; whereas the larger and more important estates in the Central Provinces and Berar should be partible equally between the two sons.

Contemporanea expositio as a guide to the interpretation of documents is often accompanied with danger, and great care must be taken in its application. But in the present case their Lordships do not feel themselves able to reject the assistance which it affords. The Sanad upon which these important rights are founded is a document of a general and informal character. It admittedly is capable of a variety of constructions. The extreme literal construction—its confinement to the single village of Deur—is adopted by neither party. And when the ambiguity covers the geographical and pecuniary extent of an admittedly ambiguous grant, their Lordships think it legitimate to observe what was the footing upon which the grantors, namely, the Government and its successors and officials, from the date of the grant and for a long period of time, proceeded.

It may be pointed out that since 1881, namely, since the death of Janoji, the question of partibility was, of course, practically and sharply raised, and the fact is that the whole of the income derived from the estates in the Bombay

Presidency, amounting to about Rs. 12,000 per annum, has been uniformly treated as the exclusive income of the elder son, namely, the present appellant. This was done both while he and his brother were wards in the Court of Wards and at other times. That Court managed the possessions of the appellant until he came of age in 1893. Again in 1895 the Court of Wards re-entered, by request of the Rájáh, into possession and management for a time. In 1899 the younger brother came of age, the property in the Central Provinces and Berar was divided equally, and the Bombay estate was treated as impartible and continued with the Rájáh as an appanage of the title. In the opinion of their Lordships, this throughout was a correct course; and the present suit, the object of which is to diverge from that course, is not in accordance with the rights of parties.

In one view, what has been said might appear to be sufficient for the disposal of this case. But in the judgments of the learned Judges of the Courts below, and in the arguments addressed to their Lordships, further considerations were urged as assisting towards a conclusion and falling to be dealt with. There can be little doubt that the whole of the lands in issue were originally *Jaghir* lands, and the legal position of such property *quoad* succession, and the competency or incompetency of assisting the construction of the Sanad of 1862 by such considerations, were much discussed. There are three points with reference to the position of property such as that now in suit which stand logically clear of each other, and with regard to which there has been a certain element of confusion. These three points are, first, was the land impartible? Secondly, did the law of hereditary succession apply to it? And thirdly, was it subject to the law of primogeniture?

The Subordinate Judge, after referring to the fact that some of the villages are referred to as *Jaghirs* in the old records, is of opinion that "that fact *per se* is not sufficient to make them impartible." If this be stated as a conclusion with regard to the *Jaghir* tenure in general, their Lordships cannot agree with it; but, upon the contrary, they are of

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

opinion that the following statement in the judgment of the High Court is correct, namely, "The grants were manifestly grants in *Jaghir* of the ordinary character, that is to say, they were personal and not hereditary, and were resumable at pleasure. Being personal and temporary, they were necessarily impartible." This accurately distinguishes between partibility as such, and any consequence, whether in the direction of hereditary or primogenital succession, which may be supposed to flow from such a fact. The impartibility of *Jaghir* lands is in truth entirely separated from the idea of succession by the fact that the impartible lands were held together as a unit in the hands of one man who was rendering personal service to the Government of the day. It may be that upon his death a fresh grant, again to one man, and again in return for personal service, was made; and it may also be that the one man selected was in the ordinary case the eldest son; but these matters of practice were not consequences of law, and the impartibility and unity which attached to personal service was not related to, but, on the contrary, was distinct from, the idea of succession by force of law to the impartible lands.

It is at this point that the case appears to have been confused and encumbered by a plea put forward by the appellant to the effect that the lands in question were not only impartible and hereditary, but were, by custom, subject to the law of primogeniture. Once grant that the lands were *Jaghir* and impartible as such, a custom of the kind alleged was not a subject for proof, because such a custom would have been radically inconsistent with the personal and non-transmissive character of a grant in *Jaghir*. Their Lordships agree in holding with the Courts below that this case accordingly cannot be decided on the custom alleged.

All that remains on this issue, consequently, is the fact that prior to the regrant by Earl Canning the lands had been formerly *Jaghir*. But this term implied no grant of the soil, but a personal grant only of the revenue to the grantee. The *Marathi* equivalent to the term *Jaghir*, namely, *Saranjam*,

came in course of time to be applied to the lands; and no doubt it was also a fact in the history of the property that the senior living male of the family had in the ordinary case succeeded to it.

In those circumstances, it is interesting to observe what was the delivery order issued with reference to the lands which were the subject of the Sanad. This forms a not unimportant item to that *contemporanea expositio* to which reference has been made. Much importance—and, in their Lordships' opinion, too much importance—has been attached in the judgments of the Courts below to the distinction between the term *Inam* and *Saranjam*. The importance has reached this point, that the learned Judges treat the lands of Satara as referred to in one or two of the documents as *Saranjam*, by way, as they apprehend, of distinction from the other lands which are treated as *Inam*. In their Lordships' view, the terms are not mutually exclusive in the sense indicated. The latter term, namely, *Inam*, is one of mere generic significance, applicable to a Government grant as a whole. But in the next place it is a very striking fact in this case that in the initial delivery order now being referred to (as indeed in many of the subsequent documents) the rights in the Bombay Presidency are dealt with comprehensively and as covered, not by one name, but by all, or at least many, of the names applicable to land and revenue rights. In the Mamlatdar's order, for instance, of the 19th March 1862, applicable to the village of Mouje Devi Nimbgay, one of the properties in Ahmednagar, the matter is treated of in this way. The village "is a jaghir to the Bhonsles and as a village was placed under japti (attachment); the revenue of the same was received for being credited in Government records." Then follows the definite statement:—"But the Vatan, Inam, Saranjam, Hakks, &c. . . . have been entered in the name of Janoji . . ." Therefore certain definite orders are given pursuant to the Government Resolution, "directing the said village, Vatan, &c., to be delivered" into the charge of Janoji's managers. It would therefore accordingly appear that the term *Saranjam* was not in point of fact confined to the lands of Sátára. This

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

ground of the judgments of the Courts below accordingly disappears.

A matter of much significance must now be dealt with. On the death of Janoji in 1881 the question of partibility or impartibility,—there being two sons of that Rájáh,—became matter for definite consideration and regulation. What light is thrown upon the case by the conduct at and after this juncture of the Government, including the Court of Wards, which was charged with the correct distribution of these two sons' shares? Upon this head their Lordships do not conceal that they have viewed with some dissatisfaction the conduct of certain parts of the plaintiff's case. On the 6th May 1882 an important letter was written by Mr. Lawrie, manager of the estates, to the Deputy Collector, "Sátára, Sholápur, Ahmednagar and Poona." That is to say, this letter was addressed to the persons acting as Collectors in reference to all the estates within the Bombay Presidency which were the subject of issue in this case. He forwards his appointment by the Deputy Commissioner of Nágpur as manager of the estate of the late Rájáh's minor sons; and then there follows this passage, or what was supposed to have been this passage, as the document was produced in the suit: "I have the honour to request you to be so good as to cause mutation of names to be made for all villages held by the late Rájáh in your collectorate in favour of his two sons, Rájáh Raghojeerao Bhonsle (only for Satara) and Laxmanrao in equal shares with my name as manager." So stated, this document would appear to suggest that all the properties except that of Sátára were partible; and this would have been an important adminicle of evidence to that effect. The document, however, has a history. It is deponed to in the evidence of the plaintiff's own witness Abaji Belaji. Interlineations and remarkable alterations occur in the document, and the witness confesses, "I cannot say why and by whose order the words 'only for Sátára,' 'two,' the 'S' added to the word 'son,' and the words 'and Laxmanrao in equal shares with my name as manager' were written." As the document stands it suits the plaintiff's case; but it appears to be legitimate, and, indeed, proper and

just, to read the document without the doubtful and unexplained interlineations and alterations. So read, the letter is as follows: "I have the honour to request you to be so good as to cause mutation of names to be made for all villages held by the late Ráják in your collectorate in favour of his son Ráják Raghojeerao Bhonsle." The letter is addressed to the Collector, not of Sátára alone, but to the Collectors of Sátára, Sholápur, Ahmednagar, and Poona, and it would, so read, accordingly appear to demonstrate that at the important time when the administration of the deceased Ráják Janoji's estate was taken up by Government, all the estates in the Bombay Presidency were treated, without exception, as an appanage to the title of Ráják.

It is right that a further reference should be made to a cognate topic. It would rather seem that the learned Judges of the Courts below have been induced to treat as authentic various entries in the Collector's books which were not the entries as originally made, but were entries subject to "correction;" a correction made upon an *ex parte* application on behalf of the plaintiff. This application was preferred, and apparently granted, behind the back of the defendant, and during the course of this present litigation. The date of the suit was the 22nd August 1900, and on the 5th August 1901 a memorial was presented to the Governor in Council at Bombay with the statement: "This is forwarded to the Chief Secretary by letter of the 13th August 1902." It is plain from a perusal of these documents that certain registers, including in particular the register of the Collector of Ahmednagar, together with certain despatches, had been the subject of investigation on behalf of the plaintiff, and that that investigation had revealed facts which were considered to be contrary to his interests. The application admits that in these documents the Collector of Ahmednagar had "been directed to treat the villages referred to in the petition as impartible *saranjám*." Then the letter proceeds: "The villages of Devi Nimgaon, Jat Deola, and Jalalpur, in the Ahmednagar District, were up to 1864 regarded as *Inám*s and *Saranjáms*, and the *Deshmukhi* and

1912.

RAGHOJIRAO SAHEB v. LAKSHMANRAO SAHEB.

other *Hacks* as *Wattans*, as contradistinguished from *Saranjáms*. There was and is no room for asserting that they were ever treated as impartible *Saranjáms* held on political tenure." This remarkable document winds up thus: "In view of the facts and arguments above set forth, you will be pleased to issue orders to correct the Land Revenue Register by expunging that portion of it in which" the villages "are specified as political *Saranjáms*." The facts and arguments here referred to are simply those which have been urged in the present litigation. The one fact outstanding from the whole of these proceedings is that the argument now preferred, to the effect that the Sátára property and that alone was treated as *Saranjám*, while the other properties were throughout treated as *Inám*, is contrary to what is admitted to have been the original entries in the books referred to. In these circumstances, it appears to their Lordships to be quite unsafe to place reliance upon a denomination of these lands dependent upon a "correction" which appears, or is alleged, to have been made while the case was *sub judice*, and upon an *ex parte* representation. Their Lordships think that the original state of the Records before the so-called corrections were made was that alone to which a Court of Law should have looked. This would at least be the safe and ordinary rule, and there do not appear to be any facts in the present case to ground an exception to it. It is not for their Lordships to pronounce upon the procedure by which such "corrections" of official documents and records can be possible in those districts in circumstances such as are here disclosed.

Various difficulties are presented by reason of expressions which appear in despatches from those in authority in the Central Provinces. In those despatches language is used which would appear to signify that the lands attached to Deur in the Bombay Presidency were the Sátára lands alone. The language is not clear, and it had reference to a matter lying beyond the jurisdiction of the writers. Difficulties also arise with regard to the terminology employed in some of the entries in which *Saranjám* is applied to Sátára and *Inám* to the other

districts, whereas in others there appears to be an application of both terms to the same lands and in various districts.

Their Lordships, upon the whole, have had little difficulty in coming to the conclusion that too restricted an application has been made by the Courts below of the term "the lands attached to Deur." They think the expression extends to the whole scheduled lands in the Presidency of Bombay. They will humbly advise His Majesty that the judgments of the Courts below should be reversed, that the lands referred to in this suit are impartible, that they are attached as an appanage to the title of the Rájáh of Deur, and that the suit should be dismissed with costs here and below.

The respondent will also pay the costs of a petition for further documents which was before the Board on the 24th February 1911.

Solicitors for the appellant: *Messrs. Speechly, Mumford & Craig.*

Solicitors for the respondent: *Messrs. Latteys & Hart.*

Appeal allowed.

J. V. W.

B 1085—14

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS