Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Sets Luchmeechund Radhakishen and Gobind Doss v. *Sets Zorawur Mull and others, from the Sudder Dewanny Adawlut of the North-Western Provinces of Bengal at Agra; delivered on the 3rd December*, 1860.

Present:

LORD CHELMSFORD.
LORD JUSTICE KNIGHT BRUCE.
SIR EDWARD RYAN.
LORD JUSTICE TURNER.

SIR LAWRENCE PEEL.
SIR JAMES W. COLVILE.

THE proceedings of the Plaintiffs in this cause have not been particularly expeditious, as we are now dealing with a Decree of the Sudder Court made in the month of June 1852, affirming a Decree of the Zillah Court, by which the Plaintiffs' suit was dismissed on the ground of want of jurisdiction.

The only question which their Lordships have to determine is, whether the contract which was entered into between the parties, or the cause of action arising out of that contract, occurred within the jurisdiction of the Zillah Court of Agra.

If this question had depended upon the authority of Salig Ram to enter into any contract by which he could bind the Respondents, probably their Lordships would have determined that there was no evidence whatever to show that he possessed any such authority, because in the petition which he presented to the Resident of Indore, and which was put in by the Appellants themselves, and made part of their evidence, Salig Ram distinctly states that no partnership existed between him and the Respon-

dents; and if he were merely the gomastah of the Respondents, he could have no power, in that character alone, to bind them to any such partnership as it is alleged he entered into. But whether this is so, or not, it is quite clear that the letter which has been put in evidence by the Appellants, and which was written by one of the Respondents, amounts either to a contract of partnership or to a ratification of what had been previously done by Salig Ram. Now, although that contract was entered into at Rutlam, yet it was for the establishment of a partnership which was to be carried on principally at Muttra, where all the transactions were to be conducted by means of the capital embarked in the concern at that place.

The partnership having been thus established, advances were made from time to time according to the terms of that partnership. Money was transmitted to Indore and other places. So far as those advances were from time to time made, though they did not constitute any debt upon which there would be any cause of action arising to the Appellants, yet they were made in pursuance of the partnership contract, and if the speculation had been a successful one, the profits would, of course, have gone to countervail the advances. But it turns out that the undertaking was unprofitable, and that losses were incurred, and the claim which is now made being the cause of action alleged by the Appellants, is for a balance of ten lacs of rupees arising out of these partnership transactions.

Now where can it be said that the cause of action, supposing it exists for that balance, properly arose? Muttra was undoubtedly the central place of business; at Muttra the partnership books were kept; at Muttra the partners would have recourse to those books, for the purpose of ascertaining the state of the transactions between them; and if, in the result, a balance was due to the Appellants, Muttra would be the place where the payment of that balance would have to be made. It therefore appears clear to their Lordships that if there is a cause of action arising out of the balance resulting from these partnership transactions, that cause of action arose at Muttra.

Under these circumstances, it is quite unnecessary for their Lordships to make any further obser-

vations upon the case; indeed, they are anxious not to touch, in the slightest degree, upon the merits of the question between those parties. They must assume, of course, but merely for the purpose of the determination of this question, that there is a balance due to the Appellants arising out of the partnership that was established.

Their Lordships are, therefore, of opinion that both these Decrees must be set aside, but as there are two Decrees in favour of the Respondents, their Lordships are of opinion that this should be without costs.