

Privy Council Appeal No. 75 of 1912.

Bagga and others - - - - - *Appellants,*
v.
Saleh and others - - - - - *Respondents.*

FROM

THE CHIEF COURT OF THE PUNJAB.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 24TH JUNE 1915.

Present at the Hearing :

VISCOUNT HALDANE.

SIR JOHN EDGE.

LORD SHAW.

MR. AMEER ALI.

SIR GEORGE FARWELL.

[*Delivered by* SIR JOHN EDGE.]

This is an appeal by the plaintiffs in the suit from a decree of the Chief Court of the Punjab, which had dismissed their appeal from a decree of the trial judge by which their suit had been dismissed. The respondents to this appeal have not appeared.

In their plaint, dated the 3rd May 1905, the plaintiffs alleged that they, "like the land-owners, are the proprietors" of houses and vacant sites in *Patti Lak* and had paid *tirni* (grazing dues) in respect of village *shamilat* land (common land) of *Lak*, and they claimed a declaration that they,

"like proprietors, may be declared co-sharers in 30,838 " *bighas* $1\frac{3}{4}$ *kanals* of the village *shamilat* land of " *Patti Lak* in proportion to Rs. 29.15.7, the *tirni* paid " by the plaintiffs, and a share (may be) awarded to them " in the said village *shamilat* of *Patti Lak* on the said " *tirni* amount according to the *Khewat*."

It is to be observed that in their plaint the plaintiffs did not base their claim to share on the partition of the common lands of *Patti Lak* upon any right as proprietors of any lands assessed to the revenue in *Patti Lak*. The plaintiffs were not recorded in the *Khewat* as persons paying land revenue in respect of land held by them in *Patti Lak*. They did not, in fact, hold any lands in *Patti Lak* which were assessed to the land revenue. What they claimed was that as they had paid grazing dues they should be treated in the partition of the common land of the village as if they were proprietors of the village, holding lands which had been assessed to the revenue. The trial judge rightly held that the plaintiffs had not proved any right to participate in the partition of the common lands and dismissed their claim. On appeal the Chief Court held that the payment of *tirni* by a person who was not a proprietor paying land revenue did not confer upon him any right to share in the *shamilat* of *Patti Lak*. The plaintiffs have failed to prove that they have any right to participate in the partition of the *shamilat* of *Patti Lak*.

Their Lordships will humbly advise His Majesty that this appeal should be dismissed.

BAGGA AND OTHERS,

v.

SALEH AND OTHERS.

DELIVERED BY SIR JOHN EDGE.

LONDON :

PRINTED BY EYRE AND SPOTTISWOODE, LTD.,
PRINTERS TO THE KING'S MOST EXCELLENT MAJESTY.

1915.