

Privy Council Appeal No. 58 of 1928.
Oudh Appeal No. 12 of 1927.

Raja Bahadur Raja Bishnath Saran Singh - - - - *Appellant*

v.

Thakur Chandrapal Singh and another - - - - *Respondents*

FROM

THE CHIEF COURT OF OUDH AT LUCKNOW.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 26TH JUNE, 1930.

Present at the Hearing :

VISCOUNT DUNEDIN.
SIR JOHN WALLIS
SIR GEORGE LOWNDES.
SIR BINOD MITTER.

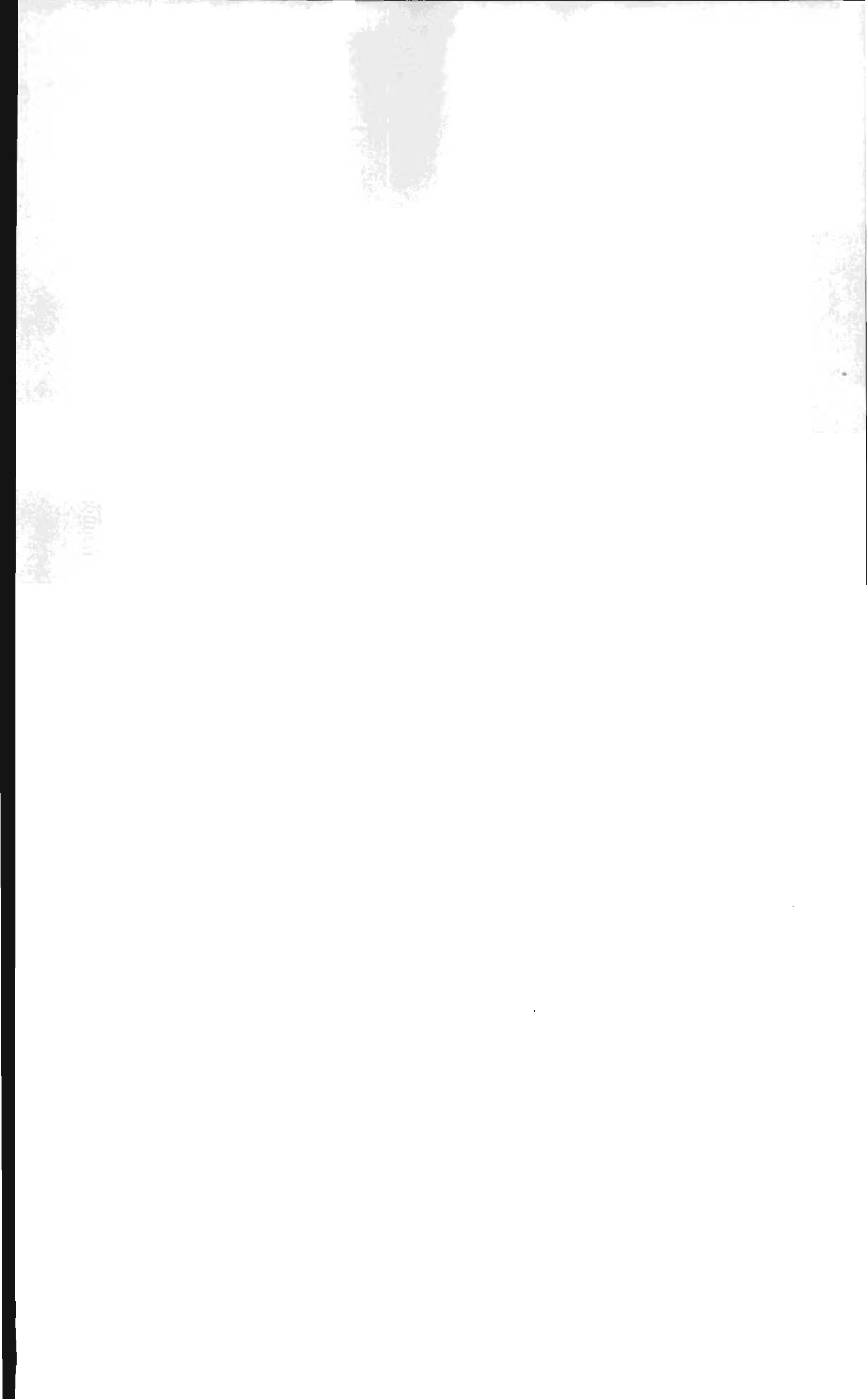
[*Delivered by* VISCOUNT DUNEDIN.]

The sole question in this case is whether the respondents are sub-proprietors or tenants. Their Lordships have before them the copy of the *putta* entered into by the old proprietor, and the wording of that *putta* certainly does more than suggest that they are to be under-proprietors and not tenants. They are not to pay revenue direct to the Rajah but direct to the Government. Then we have the finding of the Court below, which is well summarised in this sentence of the Chief Court judgment :

“ There is a mass of evidence, which the learned trial judge has rightly believed, to the effect that the plaintiff-respondents and their predecessors in interest have exercised rights in the manner in which under-proprietors would exercise rights and not in the manner in which tenants would exercise

rights. This evidence proves that they have managed the cultivated and uncultivated lands, exercised the rights of escheat, allowed tenants to settle in the village, to plant trees, to sink wells, that they exercised *zemindary* rights in a manner incompatible with the position assigned to them by the defendant-appellant, that they are *Thekadars* who could be removed on notice. They have proved from this evidence that they exercised these rights as far back as the memory of living man can go, and it is a reasonable finding that they have exercised these rights from a period prior to the annexation. I therefore find that this grant in addition to being a genuine grant is an effective grant."

If to that be added what would be at any rate the *primâ facie* construction of the *putta* the result seems to be inevitable, and their Lordships will therefore humbly advise His Majesty that this appeal be dismissed with costs.



In the Privy Council.

RAJA BAHADUR RAJA BISHNATH SARAN
SINGH

v.

THAKUR CHANDRAPAL SINGH AND
ANOTHER.

DELIVERED BY VISCOUNT DUNEDIN.

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