

*Privy Council Appeal No. 128 of 1928.*  
*Patna Appeals Nos. 2 and 3 of 1927.*

Musammat Dulhin Sham Sunder Kuer and others - - - *Appellants*

*v.*

Musammat Bibi Qasiman and others - - - *Respondents*

Same - - - - - *Appellants*

*v.*

Same - - - - - *Respondents*

*(Consolidated Appeals)*

FROM

THE HIGH COURT OF JUDICATURE AT PATNA.

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL, DELIVERED THE 21ST APRIL, 1931.

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*Present at the Hearing :*

LORD RUSSELL OF KILLOWEN.

SIR GEORGE LOWNDES.

SIR DINSHAH MULLA.

*[Delivered by LORD RUSSELL OF KILLOWEN.]*

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In this case the judgment of the first appellate Court contained the following passage :—

“ On a careful consideration of all these facts and circumstances, I come to the conclusion that the plaintiffs have failed to prove that the proprietors of Raunia used to take water by damming the Pyne at the point C.”

That, in their Lordships' opinion, is a clear finding of fact by the lower appellate Court.

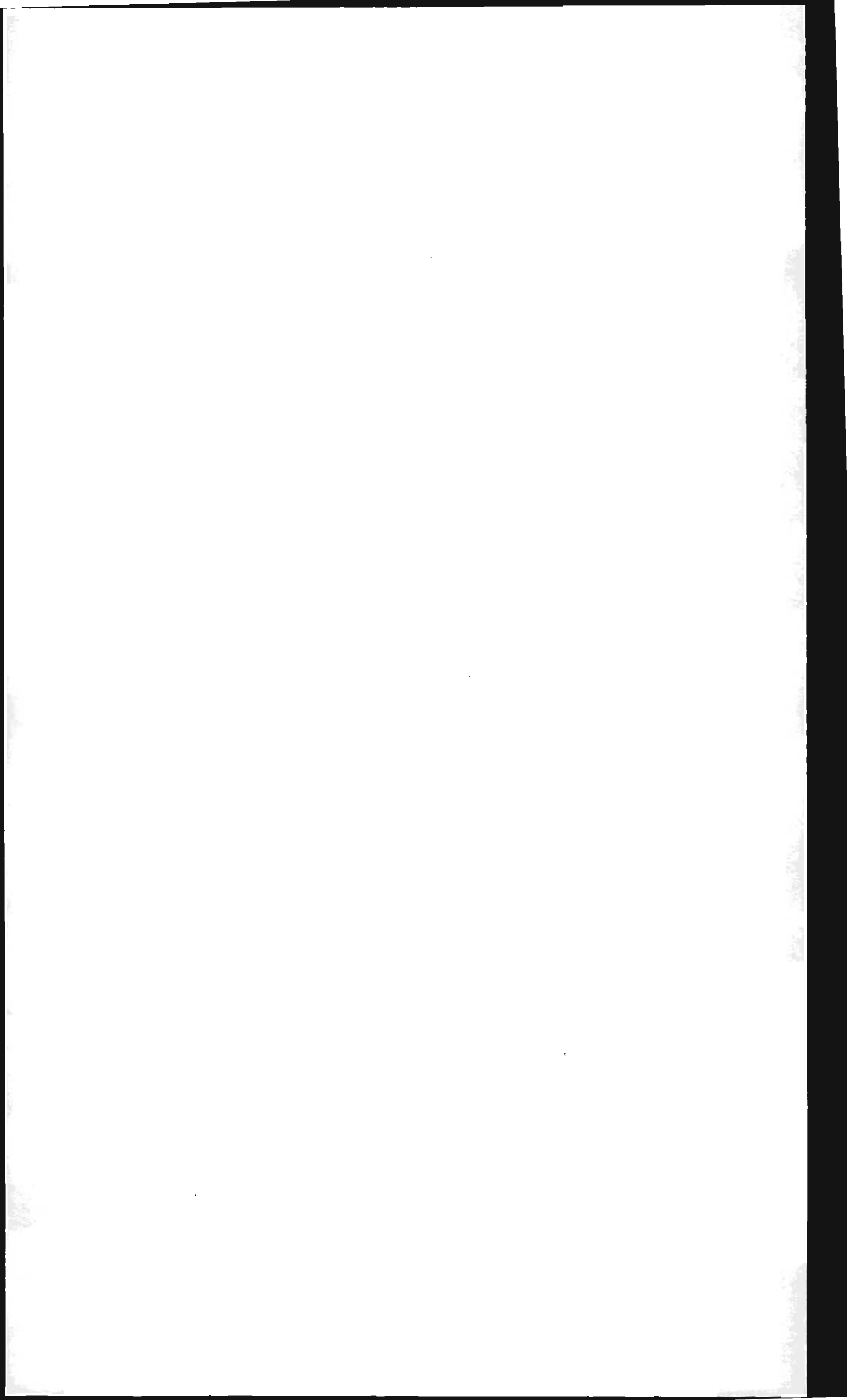
When the matter came before the High Court at Patna,

Mr. Justice Das, in delivering judgment, used the following language :—

“ In order to succeed, the plaintiffs must establish some grant in their favour, whether in the nature of an easement or otherwise. This the plaintiffs have failed to do on the findings of the lower appellate Court, which are binding on us in second appeal.”

With that passage their Lordships are in entire agreement, and the findings of the lower appellate Court are equally binding upon their Lordships here.

In these circumstances their Lordships have no course open to them except humbly to advise His Majesty that these appeals fail and should be dismissed with costs.



In the Privy Council.

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MUSAMMAT DULHIN SHAM SUNDER KUER AND  
OTHERS

2.

MUSAMMAT BIBI QASIMAN AND OTHERS.

SAME

2.

SAME.

*(Consolidated Appeals.)*

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DELIVERED BY LORD RUSSELL OF KILLOWEN.

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