Rajasthan High Court
Kalyan Singh vs Smt. Chhoti And Ors. on 14 March, 1973
Equivalent citations: AIR 1973 Raj 263, 1973 WLN 240
Author: K Singh
Bench: K Singh
JUDGMENT Kan Singh, J.

1. This is a defendant's second appeal directed against the appellate judgment of the learned District Judge, Jaipur City, dated 22-1-1966 affirming the decree of the learned Civil Judge, Jaipur dated 27-9-1963 decreeing the plaintiff-respondents' suit declaring that the "Bagichi" known as 'Shri Satya Narainji-Ki-Bagichi' belongs to the plaintiff-respondent Ganga Ram.

2. The case has a history. There is a 'Bagichi' with a temple of Satya Narainji therein and other appurtenant properties at Jaipur. According to the plaintiff, Ganga Ram, the land over which the 'Bagichi' stands originally belonged to two persons Bhagla and Girdhari. Bhagla and Girdhari had sold this land in Samvat 1932 by a registered sale deed to one Raghunath Brahmin. It was Raghu-nath Brahmin who constructed the temple of Satya Narainji and had also raised Pucka as well as Kucha construction on the 'Bagichi'. Raghunath was survived by his son Gaurilal. The plaintiff claimed that Gaurilal died issueless, but on Asoj 12 Samvat 1973 Gaurilal had executed a will in favour of the plaintiff Ganga Ram. Thereafter the plaintiff claims to have remained in possession of the 'Bagichi' and the houses thereon and has been performing the Sewa Pooja of the Deity. The plaintiff had to file the suit because defendants Kalyan Singh and Suraj Narain had obtained a decree for possession of the suit 'Bagichi' against defendant No. 3 Bhonrilal from the court of Additional Munsif, Jaipur City on 20-8-1956 and the decree was upheld in second appeal to this Court. When the defendants Nos. 1 and 2 put that decree in execution and defendant No. 3 Bhonrilal was called upon to hand over possession of the 'Bagichi' the plaintiff Ganga Ram felt the necessity of bringing the present suit for declaration. He, therefore, prayed that the 'Bagichi' be declared to be his property and the defendants be injuncted from executing the decree against him, as the decree was null and void against the plaintiff, he being not a party to the suit culminating in the decree. Tt was averred that Bhonrilal had no right whatsoever in the suit property. It further appears that prior to the suit against Bhonrilal the members of the Darji community had brought a suit against one Khawas Balabux and Narain, father of Ganga Ram, for possession of this 'Bagichi'. It was averred in that suit that the 'Bagichi' belonged to the Darji community and Narain had made a sale thereof in favour of Khawas Balabux which he had no right to do. That suit resulted in a decree in favour of the Darji community and against Khawas Balabux and Narain and the decree was upheld by the Chief Court of the former Jaipur State in the year 1928. For a period of almost 23 years nothing happened and then in 1951 the suit was brought by the Darji community against Bhonrilal for possession of the 'Bagichi'. That suit resulted in a decree in favour of the Darji community against Bhonrilal. Thus, the present is the third suit in the series.

3. The defendants contested the suit They pleaded that the 'Bagichi' and the appurtenant properties belonged to the Darji community and it was the Darji community which had constructed the temple of Satya Narainji and Mahadeoji. They had also constructed the houses on the land of the 'Bagichi' and further it were they who used to appoint the Pujaris and were realising the rental income of the

'Bagichi'. It was also denied that it was Raghunath who was the owner of the property or that he had constructed the houses thereon. About the alleged will by Gaurilal in favour of the plaintiff Ganga Ram it was stated that it was a forgery as Bhonrilal had died during the lifetime of his father Raghunath. The defendants proceeded to say that it was the Darji community who had appointed Narain as the Pujari for performing the Sewa Pooja at the temple of Satya Narainji and after Narain's death Bhonrilal being his eldest son was appointed as a Pujari. About the plaintiff Ganga Ram it was said that he was a junior member of the family and was residing in the 'Bagichi' along with his brother Bhonrilal.

4. The learned Civil Judge before whom the suit was instituted framed the following issues:--

"I. Whether the land of the disputed property was sold by Girdhari and Bhagla to Raghunath Brahmin and that they were the owners thereof?

2. Whether the said Raghunath constructed Kucha and Pucca rooms of the disputed Bagichi?

3. Whether Gaurilal son of Raghunath executed a will in favour of the plaintiff for the said Bagichi and that on the basis of the will the plaintiff is the owner of the Bagichi?

4. Whether the plaintiff is in possession of the said Bagichi?

5. Whether the judgment of Chief Court, Jaipur dated 15th September, 1928 operate as res judicata against the plaintiff?

6. Whether the court fee paid is insufficient?"

5. The plaintiff examined himself as P. W. 3 and produced six other witnesses. P. W. 1 Gopal Prasad was a Clerk in the Registration Department who produced a copy of the sale deed available in a file of the Department which purported to have been executed by Bhagla and Girdhari in favour of Raghunath, The witness stated that the register in which the document might have been copied on registration was not traceable and only a copy of the document was found in the file, but it did not bear the endorsement of it being a true copy. The witness further stated that in those days the party seeking registration of a document used to produce a copy thereof along with the original. The original would be returned to the party after registration and the copy would be kept on the file. P. W. 2 Gopal Lal stated that on Ex. 4, Which was the. will, signatures A to B were of his father Dola Ram. P. W. 4 Ramdeo stated that he had attested the will Ex. 4 at the instance of the testator Gaurilal. P. W. 5 Govind Ram and P. W. 6 Bhoorji Were the tenants living in some apartments of the 'Bagichi'. They stated that they were paying rent to Ganga Ram. P. W. 7 Shyam Sunder was the scribe of the will Ex. 4. In rebuttal the defendant Kalyan Singh examined himself as D. W. 1. The documentary evidence on the side of the plaintiffs mainly consisted of: (1) the copy of the sale deed in favour of Raghunath, and (2) the will Ex. 4 in favour of the plaintiff Ganga Ram. The learned Civil Judge held the copy of the sale deed Ex. 3 to be an old document which was produced from the official records and consequently applying Section 90 Evidence Act he held that no strict proof was necessary to be given for this document and he drew the presumption regarding its genuineness. As

regards the will Ex. 4 the learned Judge held that its execution by Gaurilal in favour of the plaintiff was proved and further the fact that the plaintiff was in possession of the disputed property went to corroborate the oral evidence regarding the execution of the will Ex. 4. The learned Judge dismissed the discrepancies in the evidence observing that the will was executed some 47 years ago and it was, therefore, natural that the witnesses would not be able to state every particular correctly. In the result, the learned Judge was satisfied that the will Ex. 4 had been proved. Consequently he granted the declaration in favour of the plaintiff that he was the owner of the property in dispute as described in Para 1 of the plaint and further that the plaintiff was not bound by the judgment and decree dated 15-9-1928 of the Chief Court of the erstwhile Jaipur State.

6. Aggrieved by the decree of the learned Civil Judge the defendants went up in appeal to the Court of the learned District Judge, Jaipur City, Jaipur. At the outset the learned District Judge considered the question whether the will Ex. 4 was duly executed by Gaurilal. He found the evidence of P. W. 2 Gopal Lal, P. W. 4 Ramdeo and P. W. 7 Shyam Sunder trustworthy and affirmed the finding of the learned Civil Judge that the will had been executed by Gaurilal in favour of the plaintiff Ganga Ram. He then considered the question whether the sale by Bhagla and Girdhari in favour of Raghunath was proved. He placed reliance on the evidence of P. W. 1 Gopal Lal and in agreement with the learned Civil Judge held that Ex. 3 was a copy of the document of more than 30 years standing and as the document was a registered one the same has been rightly held proved by the trial Court. This point was covered by Issue No. 1 and in his own words his conclusion may be put thus:

"The onus of issue No. 1 was on the plaintiff and he has examined himself and produced three witnesses out of whom Gopal Lal P. W. 1 has deposed that he had brought the file No. 15 of Samvat 1932 in which there is a copy of the sale deed Ex. 3 and thus the plaintiff has proved that Raghunath purchased the land of the disputed Bagichi under the registration sale deed Ex. 3. There is nothing on the record brought by the defendant to show that the land was not purchased by Raghunath but by Darjee community and on the other hand the defendant Kalyan Singh D. W. 1 has stated that he does not know as to who had purchased the land. It was also argued on behalf of the defendant appellant that the Darjee community had obtained a decree establishing their title to the disputed land. Ex. 3 is a copy of the document sale deed of more than 30 years standing and it is a registered one and consequently the issue No. 1 has rightly been decided by the lower court in favour of the plaintiff."

In the result, the learned District Judge dismissed the appeal.

7. It is in these circumstances that the defendants have come in further appeal to this Court.

8. In assailing the judgment and decree of the court below learned counsel for the appellant contends that the courts below had taken an erroneous view of the matter. They went wrong in holding that the copy of the alleged sale deed Ex. 3 can be presumed to be a genuine one in accordance with Section 90 of the Evidence Act. Further the copy of the document which was not attested as a true copy by any official record nor purports to have been compared with the original cannot be admissible even as secondary evidence. Then as regards the will Ex. 4, learned counsel argued that it was a forged document. He pointed out that the first suit by the Darji community was

filed against none other than the father of the present plaintiff Ganga Ram and then the second suit was filed against the elder brother of Ganga Ram and this so-called will had not seen the light of the day for such a long period. Apart from this, it was submitted that the standard of proof of a will is higher in law compared to other documents and even if formally the will may be taken to have been proved yet it would be the duty of the propounder to dispel the suspicious circumstances surrounding the execution of the will and, if he has failed to do so, the court should decline to regard the document as the last will of the diseased. Learned counsel relied on H. Venkatachala v. B. N. Thimmajamma, AIR 1959 SC 443.

9. Learned counsel for the respondents, on the other hand, tried to support the judgment of the lower Court. He submitted that even if Section 90 of the Evidence Act is not held to be applicable regarding the copy of the sale deed Ex. 3, there would yet be a presumption under Section 57 of the Indian Registration Act. Then as regards the non-production of the will in the earlier litigation, learned counsel submitted that Narain could not be expected to "refer to the will in favour of his son Ganga Ram, as that would go against his own stand; he having sold the property to Khawas Balabux giving it out as his own. Similarly, as regards the non-disclosure of the will in the subsequent suit against Bhonrilal it was submitted that Bhonrilal too had taken the stand that he was in adverse possession of the property and consequently if he were to refer to the will that would militate against his plea. Thus, learned counsel argued that the non-production of the will in the earlier litigation was not a suspicious circumstance.

10. Before proceeding further I may mention that an application was moved by learned counsel for the appellant to take additional evidence in the shape of two documents under Order 41, Rule 27. One of the documents that was sought to be produced was the judgment of the Chief Court of the former Jaipur State in the litigation between the Darji community and Khawas Balabux and Narain. As already observed, the judgment is dated 15-9-1928. The second one was the certified copy of the statement of Narain, the plaintiff's father in the earlier suit.

11. After hearing both the learned counsel on 19-12-72 the appellant was permitted to produce the copy of the Chief Court's judgment, but his prayer for permission to produce the statement of Narain was refused Learned counsel for the respondents was permitted to produce documentary evidence, if any, in rebuttal of the Chief Court's judgment. On 19-2-73, learned counsel for the respondents stated that he was not in a position to produce any documents in rebuttal, as the concerning record has been weeded out. In the circumstances, the matter has to be examined in the light of such material as is available on record. So far as the applicability of Section 90 Evidence Act to a copy of a document is concerned it is well settled that there can be no presumption regarding the correctness of the contents of the copy. The presumption could only be about the genuineness of the endorsement that the copy was certified by an officer. Learned counsel for the respondents has not disputed this position. Therefore, I need not deal with this point any further and may at once turn to the question whether a presumption could arise regarding Ex. 3 under Section 57 of the Registration Act. Section 57 reads as under:--

"Section 57. Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

(1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of Section 62, copies of entries in such books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book No. 3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No. 4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents."

Sub-section (1) lays down that the Books Nos. 1 and 2 and the indexes relating to Book No. 1 (which are prepared and kept in accordance with Sections 51 and 52) shall be open to inspection and the copies of the entries in such books shall be given to all persons applying for such copies. Book No. 3 is a register of wills and for the authority to adopt and we are not concerned with it. Book No. 4 is a miscellaneous register. It is Sub-section (5) which provides that all copies given under this section shall be signed and sealed by the registering officer and shall be admissible for the purpose of proving the contents of the original document. Here no one has pretended that in the year of grace 1876 when the sale deed Is said to have been executed any books as contemplated by Sections 51 and 52 of the Indian Registration Act were kept in the former Jaipur State. The parties are even unable to throw light on the question whether there was any analogous law in force in that State in the year 1876. It may be that there were some Hidayats under which the so-called registration of documents then known as ^^[kr Nih** was being done. That ^^[kr Nih** may be regarded as registration of documents, but we do not know what registers were kept in those times and in what manner copies of the registered documents were entered in those registers. At any rate, we have it from the evidence of the clerk that those registers were not available. Ex. 3 might have been produced by the executant along with the original, but there is no endorsement thereon that it is the correct copy of the original or that it had been compared with the original. That being so, Section 57 Registration Act cannot be resorted to for taking copy Ex. 3 as proof of the original document of sale. Under Section 114, illustration (e) the judicial and official acts can be presumed to have been regularly performed. This act of registering the document was undoubtedly an official act and could be presumed to be regularly performed, but production of an unverified copy by the executant which does not purport to have been compared with the original by any official cannot be regarded as any official act. It was, if at all, an act of the executant himself. There is, therefore, no provision under which an unverified copy which had not been compared with the original can be regarded as the proof of the original.

12. Learned counsel for the respondents argued that as no objection had been taken at the time the copy was produced regarding its admissibility, the appellant is now precluded from raising any objection regarding the mode of proof of the sale deed in favour of Raghunath. I am afraid, this is over simplifying the matter. According to Section 61 of the Evidence Act the contents of documents may be proved either by primary or by secondary evidence. Primary evidence is defined in Section 62 of the Evidence Act. The parties are on common ground that this is not a primary evidence. The secondary evidence of a document is defined by Section 63 which I may read:--

"Section 63 Secondary Evidence. Secondary evidence means and includes-

(1) certified copies given under the provisions hereinafter contained;

(2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;

(3) copies made from or compared with the original;

(4) counterparts of documents as against the parties who did not execute them;

(5) oral accounts of the contents of a document given by some person who has himself seen it"

Ex. 3 is neither a certified copy given under any of the provisions of the Evidence Act nor is it a copy made from the original by any mechanical process. It also does not appear to have been made or compared from the original as there is no verification or endorsement of the kind and it does not come under Clauses 4 or 5 of Section 63 either. No one has given the oral account of the contents of the original document. If in place of primary evidence secondary evidence is admitted without any objection at the proper time then the parties are precluded from raising the question that the document has not been proved by primary evidence but by secondary evidence. But where there is no secondary evidence as contemplated by Section 65 of the Evidence Act then the document cannot be said to have been proved either by primary evidence or by secondary evidence. Learned counsel for the respondents relied on two cases Gopal Das v. Sri Thakurji, AIR 1943 PC 83 and Pandappa v. Shivalingappa, AIR 1946 Bom 193.

13. In AIR 1943 PC 83 their Lordships observed:--

"Where the objection to be taken is not that the document is in itself inadmissible but that the mode of proof put forward is irregular or insufficient, it is essential that the objection should be taken at the trial before the document is marked as an exhibit and admitted to the record. A party cannot lie by until the case comes before a Court of appeal and then complain for the first time of the mode of proof."

In that case in order to place reliance on the plea of adverse possession the party produced a certified copy of a receipt alleged to have been executed by one Parshotam Das in March, 1881. The plaintiffs did not admit the execution of the receipt by Parshotam Das. In the High Court it was

contended that no foundation was laid by the defendants for the admission of the secondary evidence and further there was nc evidence to prove the execution of the receipt by Parshotam Das. The submission prevailed with the High Court. It was in this context that their Lordships observed that where the objection to be taken is not that the document is in itself inadmissible but that the mode of proof put forward is irregular or insufficient it is essential that the objection should be taken at the trial before the document is marked as an exhibit and admitted to the record. It is to be observed that the copy of the receipt that was admitted in evidence was a certified one. A certified copy would squarely come as secondary evidence which could be admitted in an appropriate case. Whether the case justified the admission of secondary evidence in place of the primary one is a matter that should be raised before the Trial Court and at the time when the secondary evidence is sought to be tendered. But what their Lordships were dealing with was a case where such secondary evidence as could be admissible was given.

14. In AIR 1946 Bom 193, a registered mortgage deed which was more than 30 years old was lost and certified copy thereof was produced and the learned Judge observed in that context that the deed being registered and the certified copy bearing the necessary endorsement of the Sub-Registrar before whom the executant acknowledged the execution being there the certified copy could be used and the endorsement of the Registrar fulfilled the requirements of Section 60 of the Registration Act. This is again a case of a certified copy being used in place of the original.

15. In the present case what is sought to be used is an unverified copy which has not been certified to be a true copy by any official nor does it purport to have been compared with the original by anyone. Such a copy was not even secondary evidence and was thus thoroughly useless. The party is not precluded from showing that document Ex. 3 is not even admissible as secondary evidence. Therefore, there is no proof that there was a proper sale deed by Bhagla and Girdhari in favour of Raghunath as alleged.

16. I may next turn to the document Ex. 4. I have been taken through the entire oral evidence. The three witnesses who deposed to this document Ex. 4 are P. W. 7 Shyam Sunder, the scribe, P. W. 4 Ramdeo, one of the attesting witnesses and P. W. 2 Gopal Lal who has deposed to the signatures A to B in Ex. 4 being of his father. There was considerable argument about the statement of P. W. 4 Ramdeo. Learned counsel for the appellant suggested that at the time of his statement Ramdeo had given his age as 55 years and, therefore, necessarily at the time of the execution of the alleged will in 1916 the witness would be hardly 9 years old and, therefore, this will was a forgery. Learned counsel for the respondents, on the other hand, suggested that the age given by the witness was not 55 but 65 years. I had examined the statement. The first figure in "55" can be read both as "5" as well as "6". I have looked into the writing of the learned Judge with a view to seeing how he has been writing "5" and "6" in Hindi and having gone through his writing I am left in considerable doubt that figure "5" could be read as "6" and vice versa. In such a situation, therefore, when the -, witness has given a statement on oath I give him the benefit of doubt. Having read the evidence of these witnesses I am satisfied that according to the ordinary standard of proving a document the document Ex. 4 can be said to have been proved. However, there are two disturbing elements surrounding the execution of the will. The first striking feature of this will is that even though the wife of Gaurilal was living at the time as she had survived him, no provision whatsoever had been made regarding her by Gaurilal in

the alleged will Ex. 4. Then the second striking feature is that even though litigation had been going on almost for 40 years, this will had not been referred to by anyone. In the first suit Narain was a defendant. He had not contested the suit and the proceedings remained ex parte against him. However, he was called by the court and his statement was recorded. The judgment of the Jaipur Chief Court shows that he had laid no claim to the property and took the position that he was a Pujari at the 'Bagichi'. Then subsequently when the suit was filed by the Darji community against Bhonrilal, no reference came to be made to this will Ex. 4. Learned counsel for the respondents, as I have already observed, suggested that Narain or Bhonrilal could not be expected to make any reference to the will as that would be detrimental to the stand taken by them. The argument, no doubt, looks attractive, but if it is examined in the light of none other than the statement of Ganga Ram himself it cannot stand the scrutiny. Ganga Ram had referred to the earlier litigation in the plaint, but when he entered the witness box he had taken a somersault. He was asked whether he was aware of the previous litigation and he said, he did not know of it. He was then questioned with reference to para 5 of the plaint as to how the facts had been mentioned by him therein and he kept mum and had no answer. He also admitted that it was Narain who had given him the document Ex. 4 some 5 or 7 years after the death of Gaurilal i.e., some 30 or 35 years back. In that situation there was no mention of the alleged will in any of the two previous suits. It is also remarkable that even upto the High Court Bhonrilal had asserted his own possession over the property and had also obtained a stay order on payment of mesne profits vide Ex. A/7. Further Ganga Ram admitted that his brothers Ghisilal, Kalyaa and Sarwan were present in court at the time of Ganga Ram's statement. There is thus no doubt in my mind that it was somebody else who was responsible for drafting of the plaint for and on behalf of this Ganga Ram. It was more of a family issue than an individual matter which concerned Ganga Ram alone. Therefore, the explanation of the learned counsel about this suspicious circumstance on account of the non-disclosure of the will in the previous litigation is not acceptable. The will is, therefore, not free from suspicion and it has not been dispelled. My conscience in this regard is not satisfied and, therefore, I am unable to hold that Ex. 4 was the last will of Gaurilal in favour of Ganga Ram.

17. The next question is what the defendants have been able to bring on record. There is the solitary statement of Kalyan Singh. He has admitted that account books were being maintained for the collection of rents in respect of this 'Bagi-chi' by the Darji community and further whatever proceedings were undertaken were also recorded in a book. These documents have not been produced. The plaintiff is undoubtedly in possession of the 'Baglchi' and it cannot be gainsaid that he was not a party to the previous litigation and he was not claiming the property through his father Narain or his brother Bhonrilal. Apart from everything the suit does not seem to have been filed against Kalyan Singh and another in a representative capacity in accordance with Order 1, Rule 8, Civil Procedure Code. There was no application for permission to sue them in their representative capacity. Therefore, in spite of my having reached the conclusion regarding the documents Exs. 3 and 4 against the plaintiff-respondents I am not inclined to interfere with the decree of the court below though I do feel that the litigation against Kalyan Singh and another in their individual capacity was a fruitless exercise.

18. Finally, I may deal with one more point that Kalyan Singh did not have an opportunity of leading his evidence. Learned counsel submits that the witnesses were present in court, but their statements

were not recorded by the learned Civil Judge. It is, however, noteworthy that no list of witnesses was filed by Kalyan Singh and another defendant. The plaintiff's evidence was concluded and it was after almost two years that for the first time Kalyan Singh brought the witnesses without submitting the list thereof. If in that situation the trial court declined to record the statements of Kalyan Singh's witnesses its order cannot be said to be illegal or improper.

19. The result is that I hereby dismiss this appeal, but the parties are left to bear their own costs throughout.

20. Learned counsel for the appellant prayed for leave to appeal under Section 18 of the Rajasthan High Court Ordinance, 1949, but in view of the conclusion that I have reached that the suit was not filed against the Darji community as such but against the two individuals only, I am not inclined to grant the leave to appeal which is hereby refused.

Council v. Khemchand Jeychand, (1879) ILR 4 Bom 432;

Bishambhar Nath v. Nawab Imdad Ali Khan, (1890) 17 Ind App 181 (PC);

Usmanali Khan v. Sagar Mal, AIR 1965 SC 1798;

Muthuasami Naidu v. Prince Alagia Manavala Simmala Raja, (1903) ILR 26 Mad 423;

Lachmi Narain v. Makund Singh, (1904) ILR 26 All 617;

Amna Bibi v. Najmun-Nissa, (1909) ILR 31 All 382;

Satraji Dongarchand v. Madho Singh, AIR 1927 Mad 604;

Lala Harnam Das y. Mst. Faiyai Begum, AIR 1922 All 22;

Hazee Mohamed Kuzulbash v. Shazada Mohamed Buseerooddeen, (1867) 7 Suth WR 169;

Shiv Narain Singh v. Muni Lal, AIR 1934 Lah 881;

Ramchandrarao v. Vithal Kashav, AIR 1948 Bom 143;

Yadeo Nilkanth v. Jankidas Narsinghdas, AIR 1937 Nag 202;

Jiban Krishna Ghosh v. Sripati Charan Dey, (1904) 8 Cal WN 665;

Abdul Karim Khan v. State of Rajasthan, ILR (1961) 11 Raj 596;

Bankey Behari Lal v. Lala Babu, AIR 1955 All 1;

Habibul Rahman v. Abdul Hai, AIR 1926 All 521;

Dumi Chand Telo Mal v. Gurmukh Singh, AIR 1930 Lah 816;

Bagga v. Saleh, AIR 1915 PC 106 (1);

Nawab Sultan Mariam Begum v. Nawab Sahib Mirza, (1888) 16 Ind App 175 (PC);

Secretary of State v. Khemchand Jeychand, 4 Bom 432;

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