

PRIVY COUNCIL

Raghunath Prasad Singh

Vs.

Deputy Commissioner of Partabgarh

(Viscount Dunedin, Lord Darling, J. Sir John Wallis and Sir Lancelot Sanderson JJ.)

17.02.1927

JUDGMENT

VISCOUNT DUNEDIN J.

1. This petition for special leave to appeal really turns on whether the case falls within the last clause of Section 110 of the Code of Civil Procedure. That section provides that where, as here, the subject-matter is over Rs. 10,000, then where the decree or final order appealed from affirms the decision of the Court immediately below the Court passing such decree or final order, the appeal must involve some substantial question of law.

2. Admittedly here the decision of the Court affirmed the decision of the Court immediately below; therefore, the whole question turns upon whether there is a substantial question of law. There seems to have been some doubt, at any rate in the old Court of Oudh, to which this one succeeded, as to whether a substantial question of law meant a question of general importance. Their Lordships think it is quite clear, and indeed it was conceded by Mr. DeGruyther, that is not the meaning but that the words "substantial question of law" mean a substantial question of law as between the parties in the case involved.

3. *Mr. DeGruyther* has really tried to show the Board that there is no substantial question of law by more or less taking up the merits of the 'case and showing that the decision is quite obviously right. Their Lordships do not think that they would be quite in safety to take that view in a case which certainly occupied the Court below for a very long time and on which there is a very elaborate judgment. They therefore think that upon the face of the matter there is, as between these parties, a substantial question of law.

4. Their Lordships therefore humbly advise His Majesty that leave to appeal should be

granted in this case.

Leave granted.