

“ as to property, and if no adjustment is required in any particular
 “ case, and if the main part of the agreement, that relating to the
 “ separation, is perfectly legal and valid in itself, how can it be
 “ affected by the absence of any covenant to pay an annuity or
 “ other provision as to property ”.

S. 7 of the Summary Jurisdiction (Married Women) Ordinance 1928 reads as follows :—

“ No order shall be made under this Ordinance on the application
 “ of a married woman if it shall be proved that such married
 “ woman has committed an act of adultery. Provided that the
 “ husband has not condoned or connived at or by his wilful neglect
 “ or misconduct conduced to such act of adultery ”.

I have found that the married woman in this case has committed an act of adultery and that the husband has not condoned or connived the adultery. There is no evidence that he conduced to it.

In a former case of a separation agreement between Indian spouses heard in this Court in 1934, *Munia v. Jagannath*, such an agreement was set aside as being contrary to public policy because it contained no provision for the maintenance of the wife. The present case, however, differs materially from that case. In the present case the wife admits the adultery and is not entitled in law to maintenance. The agreement, therefore, in this respect merely sets out the law affecting the rights of the parties. The agreement does not set out the adultery. It sets out merely that unhappy differences have arisen between the parties and it sets out that there shall be no maintenance, and that is the legal position because of the adultery. It is not necessary for me, therefore, to examine the further points set out in paragraphs 6 to 9 of the statement of claim.

I find that the agreement is a valid agreement and the plaintiff's claim therefore fails .

As regards costs, this action is brought by the plaintiff in *forma pauperis* : There will accordingly be no order for costs.

GANDA SINGH v. KARTAR SINGH & ORS.

[Civil Jurisdiction (Jenkins, Acting C.J.) September 22, 1939.]

Land (Transfer and Registration) Ordinance, 1933—notice of judgment registered against mortgagee's interest in land—whether a mortgage is an estate or interest in land—mortgage the subject of an agreement for sale and purchase of a half interest—whether equitable interest takes priority over registered judgment—whether registered interest will be postponed on grounds of laches.

In November 1933 one Indar executed a mortgage of a Native lease ; the mortgage was duly registered and, by several registered transfers, one Esur eventually became the registered mortgagee. On 20th January 1937 Esur transferred an undivided half share in the mortgage to one Massa : the transfer was duly registered on 23rd January, 1937.

On 21st January, 1937, Massa executed an agreement with the plaintiff, Ganda Singh, one provision of the agreement being that Massa would transfer to Ganda Singh his half interest in the mortgage. The mortgage was, after registration of the transfer to Massa, deposited with Ganda Singh but no transfer to Ganda Singh was registered.

On 8th February, 1939, Lachmi (defendant) obtained a writ of *fi. fa.* on a judgment against Massa and Indar Singh; this judgment was registered on 18th February 1939 against Indar Singh's title and also against Massa's half interest in the mortgage. Massa's half interest in the mortgage was advertised for sale at auction under the writ of *fi. fa.* subject to mortgages, leases, charges or encumbrances (if any) affecting the same, the sale to take place in the afternoon of 25th March, 1939. On 8th March, 1939, Ganda Singh gave notice in writing to the sheriff and to Lachmi's solicitor that he claimed all rights and privileges under the mortgage; on the morning of 25th March he requested the deputy sheriff to refrain from selling his interest under the mortgage. He also registered a caveat on the morning of 25th March forbidding dealings with his interest under the mortgage. However, on the afternoon of 25th March, 1939, Massa's half interest in the mortgage was duly sold at auction as advertised, the purchaser being the defendant Kartar Singh. On 27th March, 1939, Ganda Singh lodged in the Titles office a transfer from Massa of his half share in the mortgage; this transfer the Registrar of Titles refused to register.

HELD.—(1) Under the Land (Transfer and Registration) Ordinance, 1933, a mortgage is an interest in land¹ and accordingly is within the scope of s. 113 of that Ordinance (relating to execution against land).

(2) An unregistered equitable interest takes priority over a judgment registered after the creation of the equitable interest.

(3) An equitable interest will not be postponed to a registered judgment on grounds of laches and delay.

Cases referred to :—

(1) *Reid v. Minister for Public Works* [1902] 2 S.R. 416 (N.S.W.)

(2) *re E. A. Livi*, 47 W.N. (N.S.W.) 178.

(3) *Jellett v. Wilkie* [1896] 26 Can. S.C.R. 282; 21 Dig. 576n. (CAN.)

(4) *Bank of Hamilton v. Cartery* [1919] 1 W.W.R. 868; 30 Dig. 156 (CAN.)

(5) *Abigail v. Lapin* [1934] 103 L.J.P.C. 105.

(6) *re Broughton* [1917] 17 N.S.W.S.R. 29 (AUS.)

ACTION claiming removal of a registered judgment and setting aside sale of a mortgage under writ of *fi. fa.* The facts and arguments are fully set out in the judgment.

G. F. Grahame and *D. M. N. McFarlane*, for the plaintiff.

P. Rice, for the defendant Lachmi.

No appearance of the defendant Lachmi.

¹ Cf. *dictum* in *Nand Singh v. Jaimal and Third Party* [1941] 3 Fiji L.R.

JENKINS, Acting C.J.—In this case the plaintiff claims :—

- (1) An order directing the removal of Judgment No. 19904 obtained by the defendant Lachmi against Indar Singh and Massa registered on Mortgage N.L.D. No. 5380 in the Register of Titles.
- (2) A declaration that the sale of the one-half interest of Massa in Mortgage 5380 by the Sheriff of Fiji on the 25th March, 1939, to the defendant Kartar Singh is void.
- (3) A declaration that the plaintiff is entitled to have a transfer of Mortgage 5380 from Massa to him which was lodged in the Office of Titles on the 27th March, 1939, registered in the Register of Titles.

On the 21st January, 1937, an agreement, exhibit " D " was made between one Massa and the plaintiff in which Massa agreed *inter alia* to transfer to the plaintiff the said Mortgage No. 5380 upon the execution of a certain crop lien and bill of sale to Massa by one Indar. The complete agreement is as follows :—

" WHEREAS under and by virtue of an agreement in writing dated the 2nd day of March 1936 made between one Indar (f/n Bariama) of the first part Esur (f/n Bhuda) of the second part and Massa (f/n Phattu) of the third part all of Tagi Tagi in the district of Tavua in the Colony of Fiji, cultivators, it was agreed *inter alia* that upon liquidation of the mortgage debt and interest due by Indar to Esur by virtue of Mortgage No. 5380 and Crop Lien Book 35 folio 47 the said Esur should transfer to the said Massa the said Mortgage No. 5380 and should execute a satisfaction of the crop lien Book 35 folio 47 hereinbefore mentioned.

" AND WHEREAS the said Massa in order to liquidate the said mortgage debt and interest borrowed from Ganda Singh (f/n Singh) of Suva in the said Colony the sum of £200 to be applied toward the liquidation of the said mortgage debt and interest.

" AND WHEREAS by virtue of the said agreement of the 2nd March 1936 the said Indar agreed upon such liquidation to execute in favour of the said Massa a crop lien and Bill of Sale securing the whole of the moneys and interest due by the said Indar to the said Massa at the time of the liquidation of the said mortgage debts and interest to Esur.

" AND WHEREAS the said Esur did on the 10th day of January 1937 or thereabouts execute a transfer of the said mortgage to the said Massa in terms of the said agreement.

" AND WHEREAS the crop lien and Bill of Sale which the said Indar agreed to execute in favour of the said Massa have not as yet been executed.

" NOW THEREFORE IT IS HEREBY AGREED that in consideration of the premises and of the sum of £200 now owing by the said Massa to the said Ganda Singh that I, the said Massa shall upon execution of the said crop lien and Bill of Sale by the said Indar in my favour, forthwith transfer unto the said Ganda Singh all that my right title and interest in the said crop lien and Bill of Sale and Mortgage to secure the payment to him of the said sum of £200 together with interest thereon at the rate of (15) fifteen pounds per centum per annum computed from the date hereof at the cost in all respects of me the said Massa.

" IN WITNESS whereof I the said Massa have hereunto subscribed my name this the 21st day of January, 1937.

" SIGNED by the said Massa (f/n Phattu) after the contents hereof had been read over and explained to him in the Hindi language when he appeared fully to understand the meaning and effect thereof in the presence of

"(Sgd.) J. B. WILLIAMS,

" Solicitors, Ba."

His
Massa
Left
thumb Mark

Evidence concerning the making of this agreement was given by Ganda Singh and by Massa and both were cross-examined by Mr. Rice, counsel for defendant Lachmi, *inter alia* as to the consideration for the agreement. (Defendant Kartar Singh was not represented by counsel and did not appear in person). Both witnesses said that the consideration set out in the agreement, namely £200, passed on the day the agreement was signed. Mr. Rice argued that certain words in the agreement, namely the word " borrowed " in the second recital and the

words "now owing", in the second line of the operative clause, indicate that the £200 did not pass on the 21st January, 1937, the day the agreement was signed, but on a previous day, and that consequently, past consideration being no consideration, the agreement is void. I am unable to read such a strict meaning into the words "borrowed" and "now owing" for they can equally apply to money which passed just before the agreement was signed. The parties to the agreement gave evidence that the money did pass on the 21st January, 1937, and I see no reason for rejecting that evidence.

On the 26th April, 1938, a crop lien was executed by Indar in Massa's favour, and on the 25th January, 1939, the said crop lien was transferred to the plaintiff, but no bill of sale was executed in accordance with the agreement.

As no bill of sale was executed, the contingency upon which the word "forthwith transfer" in line 5 of the operative part of the agreement depend has not yet happened. The crop lien in question was, however, executed on the 26th April, 1938, and transferred to the plaintiff on the 25th January, 1939. It was argued by Mr. Rice that the crop lien includes as consideration further advances which are not provided for in the agreement of 21st January, 1937, and consequently is void. However that may be it is not material to the present case, which concerns the Mortgage No. 5380.

This latter (exhibit "A") is in the statutory form set in the Schedule to the Land (Transfer and Registration) Ordinance, 1933 and was made on 4th November, 1930, by Indar as Mortgagor to Darawan Singh and Esur as mortgagees. It mortgages Native Lease No. 5380 concerning 32 acres of land in the Tavua District of the Colo North Province. Four transfers are registered on this mortgage, but the only one with which I am concerned is No. 15062 registered on 23rd January, 1937, which transfers one undivided half share from Esur to Massa. This is the transfer referred to in the fourth recital of the agreement of 21st January, 1937. Massa says in evidence:—

"At that date (21st January, 1937,) Esur had transferred to me his interest in the mortgage. When the mortgage came back from Suva I gave it to the plaintiff".

The plaintiff says:—

"I got the mortgage paper about two weeks after I paid the £200 to Massa".

It appears therefore that the mortgage document was deposited by Massa with the plaintiff about the end of January, 1937, but no transfer of the mortgage was made to the plaintiff by Massa until 27th March, 1939. In the meantime defendant Lachmi had obtained a judgment against Massa and Indar which on 18th February, 1939, she registered against the mortgage under s. 113 of the Land (Transfer and Registration) Ordinance, 1933. That section reads as follows:—

"How execution shall bind land."

"113 (1) No judgment decree or order for the payment of money the sale of land or a sale in pursuance of an execution under any such judgment decree or order shall bind charge or affect any land until the

“ Registrar has been served with an office copy of such
 “ judgment decree or order accompanied by a statement
 “ signed by any party interested or by his solicitor
 “ specifying the land sought to be affected thereby and
 “ shall after marking upon such copy the time of such
 “ service enter a notice thereof in the register by a
 “ memorial on the instrument of title to the land
 “ sought to be affected by such entry which shall
 “ operate as a caveat subject to any prior mortgage
 “ against any alienation other than in pursuance of any
 “ judgment decree or order whilst the same remains
 “ in force or in pursuance of any execution under any
 “ judgment decree or order and after any land so
 “ specified has been sold under any such judgment
 “ decree or order the Registrar shall on receiving a
 “ transfer thereof in Form K L M or N in the First
 “ Schedule make an entry thereof in the register and
 “ on such entry being made the purchaser shall be
 “ deemed the transferee and proprietor of such land.
 “ Upon production to the Registrar of sufficient evi-
 “ dence of the satisfaction of any judgment decree or
 “ order a copy whereof shall have been served as
 “ aforesaid he shall cause an entry to be made in the
 “ register to that effect.

“ (2) Every such judgment decree or order for the
 “ payment of money or for the sale of land shall cease
 “ to affect the land unless a transfer upon a sale under
 “ such judgment decree or order is registered within
 “ twelve months from the day on which the copy is
 “ served.

“ (3) Every judgment decree or order for the
 “ payment of money or for the sale of land recorded
 “ by the Registrar prior to the commencement of this
 “ Ordinance shall cease to affect any land specified
 “ therein unless a transfer upon a sale under such
 “ judgment decree or order is registered within twelve
 “ months from the commencement of this Ordinance.

“ (4) The provisions of sub-s. 2 and 3 of this section
 “ shall not apply to an order or decree for the sale of
 “ land made by the court in its equitable jurisdiction.”

The first point I have to consider in connection with this section is the point raised by Mr. Grahame for the plaintiff that a mortgage under the Land (Transfer and Registration) Ordinance, 1933, is not land or an estate or interest in land, and in consequence Lachmi's judgment should not have been registered against Mortgage No. 5380.

“ Land ” is defined in s. 2 of the said Ordinance as follows :—

“ ‘ Land ’ means land messuages tenements and hereditaments
 “ corporeal and incorporeal of every kind and description or any
 “ estate or interest therein together with all paths passages ways
 “ water-courses liberties privileges easements plantations gardens
 “ mines minerals and quarries and all trees and timber thereon or
 “ thereunder lying or being unless any such are specially ex-
 “ cepted ”.

Is a mortgage an estate or interest in land? Under the Torrens system, which is the system followed by this Ordinance, a mortgage does not operate as a conveyance of the legal estate in the land but operates as a charge only upon the land: *vide Kerr on the Australian Lands Titles (Torrens) System*, 1927 edition, p. 12. In s. 2 of the Ordinance "mortgage" means any charge on land created for securing a debt and the instrument effecting the same. "Charge" is not defined, nor are "estate" and "interest" defined. In *Hogg's treatise on the Australian Torrens System*, 1905 edition, at p. 881 he says: "With reference to the mortgages contemplated by the Statute, it has been laid down that such a mortgage is a charge and nothing more . . . It confers an interest but no estate". Reference is given to a New South Wales case, *Reid v. Minister for Public Works* [1902] 2 S.R. 416, but the judgment is not available. Mr. Grahame, however, informs me that the New South Wales law closely resembles the Fiji law on this point and that in particular he has compared s. 113 of the Fiji Ordinance with s. 105 of the New South Wales Act and that they are the same in effect. It is obviously unsatisfactory not to have before me the Australian authorities *in extenso*, but I am helped in arriving at a decision by two other references. In *Kerr, op. cit.*, p. 357, is the following: "It is by all the Australian Statutes, and by the New Zealand Statute, expressly declared that a statutory mortgage or charge when registered has the effect of a security only, and does not operate as a transfer of the land mortgaged or charged. In other words, a statutory mortgage is a mere interest in the land". And in Vol. 4 of the *Australian Law Journal*, Harvey C.J. *in re E. A. Livi*, 47 W.N. (N.S.W.) 178 is reported as saying: "His (the mortgagee's) right appears to be merely in the nature of a charge over the land, coupled with certain powers vested in him to give effect to that charge. It may properly be described as an interest in the land, as distinguished from an estate".

I am therefore of opinion that under the Land (Transfer and Registration) Ordinance, 1933, a mortgage is an interest in land, and accordingly comes within the scope of the provisions of s. 113. It follows that the said judgment of Lachmi was properly registered under the said s. 113 against the half interest of Massa in Mortgage No. 5380. That judgment was registered on 18th February, 1939, and on 25th March, 1939, the sheriff of Fiji by his deputy at Ba pursuant to a writ of *fi. fa.* issued out of the Supreme Court by the defendant Lachmi on 8th February, 1939, sold by public auction at Ba to the defendant Kartar Singh for £376 the one-half interest of Massa in Mortgage No. 5380.

The notice advertising the sale is as follows:—

“ IN THE SUPREME COURT OF FIJI.

“ No. 1 of 1939.

“ Between LACHMI Plaintiff

“ and

INDAR SINGH and MASSA Defendants.

“ Pursuant to a writ of *fieri facias* issued out of the Supreme
 “ Court of Fiji and directed against the above named defendants
 “ Indar Singh and Massa in this action the Sheriff of Fiji will sell

“ by Public Auction at Varoka Township Ba on Saturday the 25th
 “ day of March, 1939 at 11 o'clock in the forenoon the following
 “ property :

“ All that the one half interest of the above named defendant
 “ Massa in a certain mortgage registered as number 5380 which
 “ said mortgage affects the land situated at Tagi Tagi in the district
 “ of Tavua and Colony of Fiji known as ‘ Waivaki ’ containing
 “ 32 acres more or less being the whole of the land comprised in
 “ Native lease registered in Book 25 Folio 411 subject however to
 “ such mortgages leases charges or encumbrances (if any) as affects
 “ the same.

“ Dated this twenty-fourth day of March, 1939.

“ (Signed) DENNIS HILL,
 “ Sheriff's Bailiff ”.

The notice ends with the words “ subject however to such mortgages leases charges or encumbrances (if any) as affect the same ” and the point now to be considered is whether or not the sale, assuming it to be a valid sale, is affected by the equitable right of the plaintiff under the agreement of 21st January, 1937, to have the half-interest in mortgage 5380 transferred to him by Massa. (The plaintiff entered a caveat on the mortgage on 25th March, 1939, to protect his equitable interest, but being made on the same day and about the same time as the sale it cannot be considered as operative as against the act of sale).

Both counsel agree that on the authority of *Jellett v. Wilkie* [1896] 26 Can. S.C.R. 282 the sale would be subject to all such charges, liens and equities as the property was subject in the hands of the debtor. As stated by Strong C.J. at p. 291 :—

“ The effect to be given to the entry in the register of the memorandum of the writ of execution is clearly and precisely stated in the section itself to be to operate as a caveat or warning to persons who might subsequently purchase or be about to purchase from the execution debtor, that he could only sell or transfer an interest subject to the lien of the writ. This in so many words is what Parliament has declared to be the effect and consequence of the registering of an execution. Surely there is nothing in this abrogating or pointing to the abrogation of prior interests ”.

Mr. Rice, however, for the defendant Lachmi has cited a later case *Bank of Hamilton v. Hartery* [1919] Can. S.C.R. which he submits distinguishes *Jellett v. Wilkie* and supports his arguments that the plaintiff's unregistered equitable interest must be postponed to the defendant's registered judgment. I am unable to agree with that argument. *Bank of Hamilton v. Hartery* was a case on the British Columbian Land Registry Act 1911 and the Execution Act 1911. S. 73 of the Land Registry Act 1911 enacts that :—

“ When two or more charges appear entered upon the register affecting the same land, the charges shall, as between themselves, have priority according to the dates at which the applications respectively were made, and not according to the dates of the creation of the estates or interests ”.

and Brodeur J. in his judgment says :

“ There is no doubt that the mortgage constituted a charge upon the property, and there is no dispute as to that ”.

As to the judgment, s. 2 of the same Land Registry Act declares that the word “ charge ” includes a judgment.”

“Charge”, however, did not include a judgment when *Jellett v. Wilkie* was decided and “charge” does not include a judgment in Fiji law. Mr. Rice submitted that s. 113 of the Land (Transfer and Registration) Ordinance 1933, in that it contains the word “charge” in line 3 of sub-s. (1) supports his arguments, but I am of opinion that the important words on this point in that section are the words “shall operate as a caveat subject to any prior mortgage” in line 11 of that sub-section. Registration of a judgment is not a caveat, it only operates as a caveat for the purposes of s. 113. *Kerr, op. cit.* p. 309 says:—

“A writ of execution does not bind or charge land under the Torrens System, but when entered in the register book operates as a caveat, preserving the land as an object of execution for the benefit of the execution creditor. It follows that the Torrens Statutes make no alteration in the law as to the right of persons with respect to the land acquired prior to the issue of the writ of execution, and this irrespective of whether such prior rights are registered or not”. And in a footnote is the following: “The statement in the text that the entry of a writ of execution operates as a caveat is not intended to imply that the writ is a caveat for all purposes. The provisions as to removal of caveats would be inapplicable to it”.

I am accordingly of opinion that the decision in *Jellett v. Wilkie* should be followed in this case and that the plaintiff's unregistered equitable interest takes priority over the registered judgment of Lachmi.

Now as to laches. The plaintiff obtained a transfer of the half share in the mortgage from Massa on 27th March, 1939, and submitted it for registration on the same date. On 25th March, 1939, he had entered a caveat as claiming rights as an equitable transferee under the agreement of 21st January, 1937. It is submitted by the defendant that the plaintiff delayed in obtaining a transfer from Massa of the mortgage and should, because of his delay, lose his right of priority. The defendant also submits that she has been prejudiced by the fact that she expended money in registering a judgment and in obtaining a writ of *fi. fa.* and having a sheriff's sale. Mr. Rice cited *Abigail v. Lapin* [1934] 103 L.J.P.C. 105 at p. 110 as authority for the proposition that equitable interests under the Torrens system will be postponed on ground of laches and delay. The relevant passage in the judgment of Lord Wright is as follows:—

“The Full Court of New South Wales regarded the present case as governed in principle by *Butler v. Fairclough*, where there was a conflict of equities between a prior equitable incumbrancer who had lodged no caveat and a subsequent transferee who had, after a search of the register and without notice of the unregistered charge, paid the purchase consideration. It was held that the former was to be postponed; Griffith, C.J., thus summed up the position (23 C.L.R. at p. 91): “It must now be taken to be well settled that under the Australian system of registration of titles to land the Court will recognise equitable estates and rights except so far as they are precluded from doing so by the statutes. This recognition is, indeed, the foundation of the scheme of caveats which enable such rights to be temporarily protected in anticipation of legal proceedings. In dealing with such equitable rights the Courts in general act upon the principles which are applicable to equitable interests in land which is not subject to the Acts. In the case of a contest between two equitable claimants the first in time, all other things being equal, is entitled to priority. But all other things must be equal, and

“ the claimant who is first in time may lose his priority by any act
 “ or omission which had or might have had the effect of inducing
 “ a claimant later in time to act to his prejudice. Thus, if an
 “ equitable mortgagee of lands allows the mortgagor to retain
 “ possession of the title deeds, a person dealing with the mortgagor
 “ on the faith of that possession is entitled to priority in the absence
 “ of special circumstances to account for it. Under the Australian
 “ system a clear title on the register is, for some purposes at any
 “ rate, equivalent to possession of the title deeds. A person who
 “ has an equitable charge upon the land may protect it by lodging
 “ a caveat, which in my opinion operates as notice to all the world
 “ that the registered proprietor’s title is subject to the equitable
 “ interest alleged in the caveat. In the present case the plaintiff
 “ might, if he had been sufficiently diligent, have registered his
 “ charge of the 30th June on that day. The defendant, having
 “ before parting with the purchase money to Good found on search-
 “ ing the register that Good had a clear title, and relying on the
 “ absence of any notice of defect in Good’s title, paid the agreed
 “ price ”.

That clearly applies to equitable rights. There is nothing in that passage which extends the principle to registered judgments and I have been cited no authority for such extensions. It seems to me that *Jellett v. Wilkie* precludes such extension for it lays down the principle that an execution creditor can only sell the property of his debtor subject to all such charges, liens and equities as the same was subject in the hands of his debtor. *Kerr, op. cit.*, p. 315 cites a case *in re Broughton* [1917] 17 N.S.W.S.R. 29, in which it was held that an unregistered transfer dated several years prior to the registration of a writ of *fi. fa.* had not first priority. It was also given in evidence in this case and not disputed that a notice (exhibit “ G ”) was served on the sheriff by the plaintiff on 8th March, 1939, i.e. 17 days before the sale, referring to Lachmi’s writ of *fi. fa.* informing the sheriff of plaintiff’s interest in Massa’s half-share of the mortgage, and telling him that he would be held responsible in damages for anything he may do or cause to be done in relation to the matter referred to after receipt of the notice. I am satisfied from the further evidence given by the plaintiff that the contents of this notice were communicated on or shortly after 8th March, 1939, to the defendant Lachmi.

In the result, therefore, I hold that plaintiff has succeeded in his claim, and I :—

- (1) Order that judgment No. 19904 obtained by the defendant Lachmi against Indar Singh and Massa be removed from mortgage N.L.D. No. 5380 in the Register of Titles ;
- (2) Declare that the sale of the one-half interest of Massa in mortgage 5380 by the Sheriff of Fiji on 25th March, 1939, to Kartar Singh is void ;
- (3) Declare that the plaintiff is entitled to have a transfer of the half-interest in mortgage N.L.D. No. 5380 from Massa to him which was lodged in the office of titles on the 27th March, 1939, registered in the Register of Titles.

Costs follow the event against the defendant Lachmi, the defendant Kartar Singh not having contested the claim.