

*Privy Council Appeal No 81 of 1932.*

Yoosuf Ismailbhoy Abdullabhoy Lalljee - - - - *Appellant*

v.

Ibrahim Fazulbhoy Joomabhoy Lalljee and another - - - *Respondents*

FROM

THE HIGH COURT OF JUDICATURE AT BOMBAY.

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL, DELIVERED THE 21ST JUNE, 1934.

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*Present at the Hearing :*

LORD RUSSELL OF KILLOWEN.

SIR LANCELOT SANDERSON.

SIR SHADI LAL.

[*Delivered by* LORD RUSSELL OF KILLOWEN.]

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Their Lordships have had the advantage of a very full argument from Mr. Upjohn on behalf of the appellant, a very skilful analysis and criticism by him of the evidence given by the various witnesses in the case, and a very careful consideration by him of the judgments in the Courts in India, both that of the trial judge in his favour and that of the High Court in appeal which was adverse to him. It is clear, indeed it is admitted by Mr. Upjohn, that the onus is upon the plaintiff to establish, as against the present respondents, that there was concluded on the 18th October, 1922, a contract binding upon them and rendering them liable to pay to his client a proportion of the sum of one lakh and some odd thousands rupees.

Their Lordships have come to the conclusion, after carefully considering the evidence, that that onus has not been discharged, and they find themselves in agreement with the result arrived at by the High Court in appeal ; but mainly upon the ground that the evidence given at the trial by the plaintiff's attorney, Mr. Sethna (more particularly that passage in his evidence in which

he seeks to explain the meaning of the endorsement made by him upon the draft agreement on the 18th October, 1922, "subject to clients' acceptance"), renders it impossible for the plaintiff to establish the case which it is necessary for him to prove before he can succeed.

The result is that their Lordships will humbly advise His Majesty that this appeal fails and should be dismissed. The appellant will pay the costs of the appeal.



In the Privy Council.

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YOOSUF ISMAILBHOY ABDULLABHOY  
LALLJEE

91.

IBRAHIM FAZULBHOY JOOMABAQY LALLJEE  
AND ANOTHER.

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DELIVERED BY LORD RUSSELL  
OF KILLOWEN.