High Court,
Bombay.
O. O. C. J.

Suit No. 729 of 1905.

Haji Bibi . . . . . Plaintiff

vs.

H. H. the Aga Khan & others . . . Defendants.

Judgment per Russell J. –

The main question in the case.

Although in this suit no less than 128 issues have been raised and the suit itself has attained the

distinction

distinction of having taken up the longest time on record in these Courts, the real questions at issue are of a simple character and are not more than two in number. The first of these questions is: Are the offerings made by the Khoja Community of Bombay to the Aga Khan, made to him for his sole use and benefit or for the use and benefit of certain members of his family? (2) Was the Release of the 11th September 1901 made between Shamsudin, Defendant 5, in his own right and as ad-

ministrator

ministrator of the estate of Jungi Shah of the one part, and Defendant 1 of the other, a sham transaction or collusive and fraudulent, and is it binding upon the Plaintiff?

The parties to the suit.

The Plaintiff is the widow of Aga Mooshool Shah, who was a son of Jellal Shah who was a son of Hassan Ali the first Aga Khan (hereinafter referred to as H. A.) The 1st Defendant is the present Aga Khan the 3rd son of Ali Shah the 2nd Aga Khan (hereinafter referred to as A. S.) The 2nd Defendant is Bibi Saheb, widow of Suleman Khan and one

of

of the daughters of H. A. The 3rd Defendant is Bibi Shamsool Mooluk, widow of A. S., otherwise called Lady Ali Shah. The 4th Defendant is Khuddijah Bibi, widow and 2nd wife of Jungi Shah another son of H. A. The 5th Defendant is Aga Shamsudin Shah (hereinafter called Shamsudin), 2nd son of Jungi Shah aforesaid. The 6th Defendant Shahzadih Begum, wife of Defendant 1, is one of the daughters of Jungi Shah by the said Khudijah Bibi, and a sister of the Plaintiff and the said Shamsudin. The 7th Defendant

is

is Aga Sharookh Shah a son of Akbar Shah who was one of the sons of H. A. The 8th Defendant is Aga Farookh Shah another son of the said Akbar Shah. The 9th Defendant is Aga Coochick Shah (hereinafter called Coochick), the brother of Mooshool Shah and Shah Bibi and son of Jellal Shah. Coochick married first a daughter of Shabuddin Shah and after her death her sister. The 10th Defendant is Shah Bibi the widow of Nooroodin Shah the 2nd son of the said A. S. and brother of Defendant 1. The 11th Defendant

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fendant is Malik Taj Begum, sister of Shah Bibi, wife of Zainulabedin Shah and daughter of Jellal Shah. Defendants 12 to 14 inclusive are the two sons and daughter respectively of Moochool Shah by the Plaintiff. See the Pedigree annexed to the Plt & the one hereto in Exhibit 1 this annexed to the Judgment of this judgment.

The contending parties in the suit are on the one hand the Plaintiff, Defendant 2 and Defendants 9 to 14, and on the other hand Defendant 1 and Defendants 3 to 8.

The material paragraphs of the Plaint are paras. 1, 2, 13, 14, 15, 17, 18, 23, 24, 34, 36 and 55, and of the prayers

The Pleadings

(c)

(e), (g), (j) and (K.) I need them at length.

Defendant 1s Written Statement sets forth a large number of defences, the nature of which, however, may be sufficiently gathered from the first 125 issues.

The 5th Defendant Shamsudin in his Written Statement sets forth the circumstances under which the alleged Release of the 11th September 1901 came to be passed.

The 7th and 8th Defendants inter alia say that their father Akbar Shah appropriated

to

(4.)

to himself certain properties belonging to the said H. A. which he treated as his own exclusive property and that ~~his~~ their father never claimed any more property against the estate of the said H. A. nor any of the allowances, and they say they have no right to any of the properties left by the said H. A.

14. The Defendants 9 to ~~12~~ say *inter alia* the offerings received by the successive Aga Khans were ~~not~~ received not for their individual benefit but

but for the benefit of all the members of the family as shown in the Pedigree Ex. A to the Plaint. Para. 3 of their Written Statement sets up the custom they rely upon and I read it at length.

Difficulties on face of Plaint.

It will be seen that upon the face of the Plaint it is difficult, if not impossible, to ascertain the real basis of the Plaintiffs' claim. The Pltff claims $\frac{7}{144}$ of H. A's estate +

Ex; being before me [illegible] Para. 17 of the Plaint first sets out the 9 heirs and heiresses of H. A. Para. 14 says that those 9 heirs and heiresses jointly succeeded to ~~the~~ his estate according to their respective shares according

to

(10) If this is intended to be Mahomedan Law there is no such thing as joint succession under it

to Law. Para. 23 says that after his death the said 9 heirs and heiresses named in para. 17 and their issue continued to live together as an undivided joint family. The words "continued to live" imply that they were living as an undivided joint family during H. A's life.

~~It will be seen, therefore, that~~

It is therefore very difficult to ascertain from the Plaint ~~on~~ by what law or legal principle the succession to the estate of H. A. is to be determined and in my opinion the Mohamedan Law of inheritance and the Hindu Law are mixed up in a way which renders it almost impossible to know what those who drafted the Plaint had in their minds when they ~~did so~~ drew it. ~~It is well known that Khojas are governed~~

In the correspondence through H. 16, see pp. 22 & 25 of Appeal Book, it will also be seen that the Plff. based her claim as having a joint interest with Deft. 1. See also D.H. 6 Edgelow + Co's letter 31-3-04 on behalf of Kuchick to Deft. 1.

by

~~by the Hindu Law of inheritance. See 12 Bom. H. C. Rep. page~~ According to the law of a joint family ~~. That being as the question of succession depends not upon~~ the is not heirship but ~~as~~ survivorship, and that I understand those who drafted the Plaint had in their minds when they say in para. 18 that on the death of the 1st Aga Khan as aforesaid all his said nine heirs and heiresses jointly succeeded to his estate according to their respective shares therein under the law, meaning I apprehend the Mohamedan Law which is referred to before, but then in para. 23 they go on to say that after the death of the said 1st Aga Khan his said three widows, three sons and three

daughters

daughters and their issue continued to live together as an undivided joint family, receiving payments out of the funds thereof in their character as heirs and heiresses. From this I assume, ~~[illegible]~~ that it was intended to say that the Hindu Law of the joint and undivided family was applicable to the case and not the Mohamedan Law under which the succession devolves in severally, and this conclusion of mine is borne out by the Plaintiff's evidence in cross-examination and Mr. Inverarity

rightly

rightly took the Plaintiff in detail through the various members of the joint family so that she should be making no mistake upon this most important part of the case. I therefore read ~~through~~ her cross-examination on this point in extenso.— See pages 43 P.S. of the printed evidence before me. That the Plaintiff, however, discovered afterwards the fatal effect of her evidence is plain because after she had given the above evidence she abandoned that position and said as follows:— on Monday 17.2.08. P. 53 l. 14. "I said to my mother to" ..... "mamma! have you to the" l. 25 P. 53.

Further from 2 of the Petn admits the there was no new departure in the time of H.K. & offerings were made to H.K. as of old & Income went to H.K. Offerings were made by many years to the Income not H.K. therefore how stands of Joshi mother to show in the case of the share H. K. Thakur's the mother not to be mother?

If, therefore, the case is to be governed by Hindu Law, it is obvious that it is impossible upon the record, framed as it is now, for this Court to decree the partition that is sought for, for the simple reason that a large number of persons who are interested in and entitled to share in the property of the joint and undivided family are not on the record, and no application for placing them on the record have been made to me, and this is obviously a fatal defect in the Plaintiff's case.

It undoubtedly was ~~intended~~ open to Defts. at

~~at first~~ to raise ~~various~~ preliminary points in this case, but no application was made to me that they should be decided in the first place, ~~the~~ reason for this being, I apprehend, that the advisers of the 1st Defendant seeing the very grave importance of this case to him ~~upon the merits was unwilling to leave their defence upon technical~~ questions of law but determined to fight the Plaintiff and her supporters on the merits.

I propose now to deal with the first of the two main branches of the case which I have stated above, namely: Who is entitled to the offerings made by

[illegible]

[illegible]

by the followers of the A.K., or in other words, whether the members of the family other than the Aga Khan for the time being have any right or title thereto.

The consideration of this question necessitates my setting forth as shortly as I possibly can the material facts as to the title of the A.K. ~~the real position of the Aga Khan~~ But before ~~I go into this question~~ doing so I wish to clear the ground in respect of one matter upon which a mass of evidence has been given and by which a great deal of the time of the Court has been occupied, and that is: whether the Aga Khan ~~and the Khoja~~ is an Ismaili.

Whether the A.K. is an Ismaili

~~The not question the I cannot deal with~~
~~is then the Act 1 is an unreasonable.~~
~~Perhaps I do so. However I cannot consider how~~
~~this question arose.~~ When Pl's counsel
began to put questions to this I could
not at first judge whether they were
relevant or not. He seems however to
~~this~~ entertained the opinion with which
they were being put in: with a view
to ascertaining the position of Act 1
in the community I, if my memory serves
me, by Declaration: whether to pass 1 &
2 of the Pl't must ~~explain~~ the line etc.
If he succeeded I gave the 2nd & those
passes he must formally submit to
Permit. Then I said this it was in
the expectation & I may say the hope
the objection would be waived on
behalf of Act 1 & then Act 2 was
argued with him that my counsel
questions were irrelevant since have
such objection there has been I

the Act 1 is an unreasonable

[illegible] at one time or another. He said
objection has formally waived &
I did not see any way of avoiding
the question without a formal objection
being raised. After this the witness
has left, I leave to be the
length & expense of this trial was
becoming a formidable matter & some
formal objection has taken on the ground
of this class of questions. By that time
however a considerable amount of evidence
had been given (subject) & when the witness
was examined. We decided he left, thus
objected to this evidence at that stage
being lodged & I instructed he
should have the right to have it all
on record & to put his claim with
the law & bring the questions and
all statements on the record. In
any opinion he was justified in
adopting the line of conduct as
otherwise the claim would have
been lost that it could be lost

While the left I did not spell to the
[illegible] being given to be found that it was
having the strong hand to punish the other
the left in obedience to its authority. The
[illegible] without [illegible] any [illegible]. So I have
said here, if the Sect is opposed
to the left I am having hence an [illegible].
I want it 3.

In support of this
we make in this
[illegible] is 6 I am [illegible]
and I am right in saying
[illegible] the [illegible] of
[illegible] (not in this
[illegible]) is at the
[illegible] of 1929 Pt. I of
the [illegible] in Commission.

It is a [illegible] to [illegible] that the
meaning of the term "[illegible]" is.
It literally is "Tahir-[illegible]" &c.
there the letter in 12 Imams and
& not in 48 Imams. Thus ~~names~~
~~[illegible]~~ are Ali, Hassan,
Hussein, Zainulabadin, Muhammad Baqir,
Jafar Sadak, Musa Kazim, Ali
Rizai, Muhammad Taqi, Ali Naqi,
Hassan Askari & Muhammad Mahdi.
It will be observed that they have
left from the Imamship at the 7th
Imam. For the ~~latter~~ ~~[illegible]~~ in
Imamship another are 7 ~~Ja. Baqir~~ Jafar Sadak
(& not in ~~Jafar Sadak~~ Musa Kazim.

Also all the "[illegible]."

It appears that there have been several sessions among the fathers of the A. Thos. Jaffer Prathan at L. 2335.

Several Sessions

the is a present President of the Council of the Jamaat among the first time was in S. 1933. (A. D. 96/97) when several persons were examinated by the H. L. for filling the membership forms. The next Session was in S. 1935 (A. D. 99/00) when 2 persons were examinated for the same cause. There were 2 Sessions of A. D. 1901. This was the first of the Sessions held on account of the accounts of the Elections & the first that the membership in that year held in Mazagaon ~~Jamaat Khana~~ and reg for the Ithna Jamaat-Khana.

2.00

The Ses DH63 & DH67

see the advertisements which have

DH.66. of them being tried to assist the L.K. in

[illegible] and the occasion of his return to 24

Dowling. The true reason has not been

in the advertisement, says Professor Pearson,

but it is not true they have always been

following the practice further, although the

witness to show I hold the genuine

belief and intend it, I think that the

offence of hypnotism is partaly owing

rather to a temporal than a spiritual

or religious feeling. viz: an inclining

disinclination to pay the various sums

which are due to the L.K. or Hegan

Jamum for the trial being. If these

are ill: understand the witness not

being willing to ~~[illegible]~~ admit this.

A very large body of evidence has

given on the present. witness after

witness has xxd & xxd to the same

and in short language, and on

"Rozelana"

the occasions the ~~[illegible]~~ on

acquaintance of the suffering of Hypnotism

(Hypnotism

In the case of the hypnotism of last week of "Fallon" they spoke of disinclined to acquiesce them-selves. +

+ (Cross exd "Dr." "So to assume" 2.00

has written. Let us ~~after~~ before turn
X^d & X^d^ as to whether the Jury
(or Coroner if it may be so termed)
did or did not form part of the
Prosecution. But in my opinion it
is not necessary to turn to at length
~~into the evidence~~ into the evidence
~~of the witnesses~~ of the Jury on
this matter. There can be no doubt
that the mother of Left 1 & 3 and
of his relatives are the witnesses. The
Learned Counsel admitted 2^d^ he had
been present ~~when~~ on one occasion
when the Jury at the 3^d^ 8th & 12th
January has met but he did not
repeat it (P. 198). As a point
that has been attempted to be made
of the fact of the theft of Left 1 I think
it disappears & more his account
begins P. 214. l. 22 to P. 215. l. 4.

To my mind it is impossible
to believe that Left 1 believes

in a faith the result of which they will
be that he has no higher motive to
his profession of Holy Orders. that he
has no higher motive to main Office
from his fellows than we can induce to
in short to be Jesuits - but it that
he is practising a gross imposture.
I cannot believe that if he really saw
his responsibility he would allow his
fellows to represent in all women
& in these holes in the Church Jesuit
Schools of training & they & Jesuits
[Q H 132] set out to deceive people
a person in which (with the 40
Jesuits are united ~~for the~~
~~Rising~~ and obedience is under them
the name of the Jesuits for the
time being is attached. The Pope and
the church and their interests are
therefore to my that I have
Jesuits
instructed the ~~[illegible]~~ Jesuit
[to a new religion.

Thus Khushal b. 1707. says "My time is of
2 present faith states from Jogi death
a year after. 2 Fanatic followers of
R. K. do state from that time. 7
Cannot say before or after Jogi's death.
2 are religious here been going 15 years
since R. K. was Bhagat at entire
knowing 2 years after Jogi's death.
I have my house is a new invention
of 2 last 12 or 14 years, since 2
present R. K. have of age. This
new invention has come forward of after
Jogi's death. S. K. has interest in
new house in Gujarati - 2 ~~[illegible]~~ ma
was Arabic." Gurmukh Singh Rajan
(p. 245) says Vs. the then not know of
my sect of Shiva the Sikhism of
Somnath was of 7th January. Vs. after
this sect the name have it separated.
I say on Vs. Somnath have received
Jassa Singh. Vs. the behind it Sikh
in new invention since this sect of
Somnath received Jassa Singh on 7
7th January. The then not know

when it has invented.

From this point of view I have no hesitation in holding that Pope has clearly failed to prove that Christ is a man has no hypostasis and that such an assertion is clearly contradictory to from 1 of his own premises – has any explanation on to which has been that it has no state & existence of his own & has. See p. 66. where from 1 of Pt. is referred to & the says "He has not of knowing of the Religions – the says that? I do not say that is theosophism. H. p. this not claim to be direct descendant from Samuel Daniel or of Jesse Sabah, to Daniel has not to Samuel. It not: be theosophism to describe Daniel as Samuel.

of Jesuits are of 12 Jesuits — they are the very sort of thing Jesuits are.
Then I argued of Pitt I think not likely found to be true. Then it seems much out to one probably my attention seems not called to it."

Panch. Tan"

Again a circumstantial account of witches was given as to shadow the followers of the A. Sh. which he permitted to hurt the Khan on their heads at certain times — the witches when that they do hurt the Panch-tan (Sir Ex: D. H. 134). But whether they made a wax image but the Khan in the same way occurred to me to be wholly irrelevant.

Authorities.

In stating my conclusions as to the different sections, the history of the A. Sh. &c &c before I say they are drawn from the authorities given in 12 Dowby H.E. Lately Mr Blochmann's translation of the Ain in Vols V. VI. & VIII Calcutta Imperial Series. & articles of Sir Roseter Tone in Numismatic Magazine Vol XXXIV. 1876. Tuzuk of Jahangir Pt. of Ed: Jarrett. Hayden History of Jahangir 1896 & the Tarikh-i-Rashidi. Ilias Muhammadan Law. Ameer Ali: Muhammadan Law.

~~In the first place I must point~~ out as shortly as possible the history of the Aga Khan and his legal position ~~but before I do so it will be~~ ~~It will I think be best to do so if I now~~ ~~proceed to~~ explain the various words which appear in the course of this case and must appear in the judgment.

"Sunnis" are the orthodox Mussulmans, the people of the Sunna or Tradition. Their "Kulmi" or profession of faith is the simple one: "There is no God but God and Mahomet is the Apostle of God."

"Shias" means either separatists, which is probably the more correct derivation, or persons who are pure from the blood of those members of the family of Ali who early fell victims to the hostility of the Sunni Ommeiades, the Caliphs of Damascus. To the profession of faith of the Sunnis above set out the Shias add

following of Mahomet's words teach.

"Sunnis"

"Imam" means Spiritual Head — Supreme Pontiff.

"Pir" means spiritual head of a Ismaili community.

"Jamat" is a congregation of men or assembly of a religious community.

"Jamat-khana" is the meeting house or place of worship.

"Sheikh" is the Teacher or Instructor.

"Mukhi" is the Treasurer or Accountant.

"Kazi" is the Magistrate.

"Shias"

add: "and Ali, the companion of Mahomet, is the Vicar of God." The elevation of Ali, who, it is well known, was the son-in-law of Mahomet to an almost co-equal position with the Apostle of God himself, may be stated popularly as the great distinctive tenet of the Shias.

"Imam" means Spiritual Chief or as has been said Supreme Pontiff.

"Khoja" means the honourable or worshipful person, and the disciple.

"Murshed" is the spiritual head or hereditary head of the Imami Ismailis.

"Jamat" is the congregation of the people, the assembly in council of all the adult male members of the Khoja Community of the place.

"Jamat-Khana" is the council-hall or guildhall of the Community.

Mukhi

The Shiites are divided into several sections of the Shiites, e.g. of those who believe in

I Imamites

the succession of the 12 Imams.

To be interpreted below

But Imam Ali appeared in a grotto at Sarraman Raa (Sirmanraa) near Hilla in the 12th year of his age (and to have ate Vol 2. p. 11.) & was thence borne on a bell and to Heaven, Imam Lord. He is behind & is still alive and they look forward to his reappearance & reestablish the universal Caliphate.

II Ismailis.

II The Ismailis are of the sons of Jafar Sadik the 6th Imam. In Bombay they comprise Bohras & Khojahs. Both sect was founded in the early part of the 10th century from Kindarism to Islamism. The Khojahs belong to the Nizari subdivision of Ismailis & are followers of "the aga Imam of the Nizari" Thus the current writings are Bombay Khojas spiritual

Stretching on them. The Borahs on the other hand belong to the Western sub-division of the Dai-wad.. Dawat or Grand Prize lines at Zemen. ~~[illegible]~~ amin ali
12.13.

Continued page 23.

Or as stated in Vol I of Travels of Marco Polo, Edition of 1903, pages 140 and 141:- Adherents to the family of Ali as the true successor of the prophet existed from the tragical day of the death of Hossein and among these probably owing to the secrecy with which they were compelled to hold their religion there was always a tendency to all manner of strange and mystical doctrines, as in one direction to the glorification of Ali as a kind of incarnation of the Divinity, in another direction to the development of Pantheism and release from all positive creed and precepts. Of these Alilites, eventually called Shiahs, a chief sect were the Ismailis, who take their name from the seventh Imam, whose return to earth they professed to expect at the end of the world.

Some of the Ismailis apparently were known as Ali Ilahi, the origin of whose name is to be found in a book called the Dabistan by Mullah Mosheim

Abdurrahim Jami quoted by Mr. Colebrook, an extract from which is to be found in the note at page 218 of the Tarikh-i-Rashidi by N. Elias and E. D. Ross, Sampson Low & Co., 1895.

"Khojas" signifies the [illegible] or [illegible] [illegible] of the [illegible].

"Khojas"

~~"Moukhi" is the Treasurer or Steward.~~

"Kamaria" is the accountant.

~~"Wazas" is the Vazir.~~

~~In this case we have~~ to deal with three Aga Khans, namely Hassan Ali, the first, Ali Shah, the second, and Defendant-1, the third. Hassan Ali was the ~~son of one Kalifalah.~~

Belief of Shia Imami Ismailis.

Shia Imami Ismailis hold Ismail, the 7th in descent from Ali, to have been the last of the revealed Imams, and they also hold that until the final manifestation of Ali who as an Incarnation of God is to come before the end of all things to judge the world, the nuseerd of the Imamate or in Latin idiom the office of Supreme Pontiff is rightfully held by an hereditary succession of unrevealed Imams

the

(24) 37

the lineal descendants of Ali through Ismail

The revealed Imams, according to the Ismailis are these seven: 1 Ali, 2 Hassan, 3 Hoossein, 4 Zeinaledeen (this was that son of Hoossein who survived the massacre of Kerbela), 5 Mohammed Banker, 6 Jaffir Seedeck, 7 Ismail (who died before his father, and is called from his father's name Ismail-bin-Jaffir Seedeck.) + Repeat from the unrevealed Imams.

Revealed Imams

But the unrevealed Imams continue down to Defendant 1 who is the 48th. Their names are ~~as~~

~~following~~ Set out in Ex DH 132 the Doora.

This Exhibit shows the officer thinking of the idea of the Aga incorporating the 48th a Deputation of Ali is to my mind of such interest that I set it out at length. It may be called the Imami Creed. [Then insert the hinter forgs] ——

"Khojia" means the honourable or worshipful person the disciple.

But the Khojas argued the 2nd one viz Hassan merely was a Pir - See the Doora.

2 P.M.

38

~~D. N. 138~~

(Translation (1) of the title page of a printed prayer book in Sindhi and (2) of an extract from the same at pages 5 to 48 translated as read and explained by Jumabhai Ismail, a sworn reader.)

(1)

This book contains Pir Sadruddin's Ode

and

5 evening odes.

and

Three times' prayers.

(2)

Help (us) O Ali.

Say your prayers—Say your prayers—Say you prayers. May God bless you! Take the name of God. May the Lord Ali grant you faith and modesty. O Shah, accept my evening prayer and supplication by virtue of the privilege Thou possesseth, O our Master Aga Sultan Mahomed Shah.

(Then) you are to prostrate. If it is the night prayer, say "My evening and night supplications" and if it is the morning prayer, say "My evening, night and morning supplications."

Then repeat the rosary and prostrate.

Then repeat the following :—

I repent for my sins. I repent for my sins. I am a sinful servant (of Thine), sinful from top to toe. O Shah the Forgiver, forgive me. The Pirs pray, (Thy) servant supplicates. Thou, O True Shah, accepteth the same. (I obey) the Firman (i. e. mandate) of the Shah as communicated by the Pir.

Having said the above, keep the rosary on the ground and repeat the following :—

True declaration—God is Holy. Thanks to God. Praise to God. There is no God but God. God is Great. There is no might or power except

hat of God, the High, the Great, the Merciful, the Magnanimous, the Good, the Great Holy Providence (who is) in the District of Chaldea in Persia, in human form, descended from the seventy seven Patras (ancestors), and who is the forty-eighth Imam (Spiritual Chief), the tenth Naklanki Avatar, our Master Aga Sultan Mahomed Shah the Giver. 5

(Then) you are to prostrate. Then say "Hak Shah" (i. e. O Shah, Thou art true) and repeat (the names of) the ancestors of Vishnu and of the successors of the Shah.

(Names of) Vishnu's ancestors :—

Names of the Lord, that existed in the three Karans (very first ages), 10 the Avatars and their ancestors : —

The illustrious Ahonad (1), Ahonad was followed by Alakh (2), Alakh by Namail (3), Namail by Anil (4), Anil by Sunn (5), Sunn by San (6), San by Nan (7), Nan by Gnan (8), Gnan by Noor (9), Noor by Tej (10), Tej by Jal (11), Jal by Kamal (12), Kamal by Adbudh (13), Adbudh by Jag (14), 15 Jag by Tantva (15), Tantva by Prem-Tantva (16), Prem-Tantva by Adpurush (17). As to what there was before Ahonad in the most ancient ages, the particulars of the same are unknown. Then Adpurush appeared in flesh (in the following order) :—Hav, Kav, Dharam, Keshav, Tanonad, Ootra, Haritak, Parurva, Antatit, Premrukh. Then Machh was born. The illus- 20 trious Machh was succeeded by Manayek, Ajmer, Agarsen, Ichchhaoot, Brespat, Asvamitra, Paoontar, Padvir, and then Korambh was born. (2) The illustrious Korambh was succeeded by Bisiriat Dikhiat, Prajapat, Agarser, Kadim, Doyeh and then Vara was born, (3) the illustrious Vara was succeeded by Keshav, Khatriavas, Assav, Oonas, Khalipat, Gotam, Ant Haritak and 25 then Narsinh was born, (4) the illustrious Narsinh was succeeded by Manayek, Kowchak, Repak, Keshvadhan, Keshvarukh, (and) then Vaiman was born, (5) the illustrious Vaiman was succeeded by Mandhata, Prothmi, Jaishrin, Javlagan and then Farsiram was born, (6) the illustrious Farsiram was succeeded by Rugh, Nugh, Jujiat, Kable, Ajepal, 30 Dasrath and then Ram was born, (7) the illustrious Ram was succeeded by Padam, Jasvadhan, Virpar, Vasudeo, and then Krishnaji Kan was born, (8) the illustrious Kan was succeeded by Parikhat, Janmejai, Sesanand, Satanand, Vinovachhraj and then Budh was born, (9) the illustrious Budh was succeeded by Sish, Sam, Salam, Malkan, Islam, Haran, Saman, 35

Sajan, Aduan, Maod, Nizar, Mazar, Alias, Mudrakh, Khuzaime Kanane, Nazar, Malek, Faher, Luwe, Keb, Murai, Kelab, Kusai, Abdel Munaf, Abu Hasham, Abdul Muttalib, Abu Taleb Vali and then the Shah Mowla Murtaza Ali was born; (10) the successors of the Shah: I say (the descendants of) Abu Talab Vali (were)

1. Our true Lord Shah Ali.
2. Our true Lord Shah Husain.
3. Our true Lord Shah Zainul Abedin.
4. Our true Lord Shah Mahomed Bakar.
5. Our true Lord Shah Jaffer Sadak.
6. Our true Lord Shah Ismail.
7. Our true Lord Shah Mahomed bin Shah Ismail.
8. Our true Lord Shah Vafi Ahmed.
9. Our true Lord Shah Taki Mahomed.
10. Our true Lord Shah Razi Abdulla.
11. Our true Lord Shah Mehdi Mahomed.
12. Our true Lord Shah Kayem.
13. Our true Lord Shah Mansoor
14. Our true Lord Shah Moezz.
15. Our true Lord Shah Aziz.
16. Our true Lord Shah Hakem Abu Ali.
17. Our true Lord Shah Lahir Ali.
18. Our true Lord Shah Mustansirbillah.
19. Our true Lord Shah Nizar.
20. Our true Lord Shah Hadi.
21. Our true Lord Shah Mohtadi.
22. Our true Lord Shah Kaher.
23. Our true Lord Shah Ali Lakaria Salam.
24. Our true Lord Shah Ala Mahomed.

25. Our true Lord Shah Khud Jalaluddin Hassan.

26. Our true Lord Shah Alauddin Mahomed.

27. Our true Lord Shah Ruknuddin Khoor Shah.

28. Our true Lord Shah Shamsudin Mahomed.

29. Our true Lord Shah Kasam. 5

30. Our true Lord Shah Islam Shah.

31. Our true Lord Shah Mahomed bin Islam Shah.

32. Our true Lord Shah Mustansirbillah.

33. Our true Lord Shah Abd Salam.

34. Our true Lord Shah Garib Mirza 10

35. Our true Lord Shah Budr Ali

36. Our true Lord Shah Murad Mirza

37. Our true Lord Shah Zulficar Ali

38. Our true Lord Shah Nuruddin Ali.

39. Our true Lord Shah Sayyad Khalibullah Ali. 15

40. Our true Lord Shah Nizar.

41. Our true Lord Shah Sayyad Ali.

42. Our true Lord Shah Sa Hasan Ali.

43. Our true Lord Shah Kasam Ali.

44. Our true Lord Shah Abdul Hasan Ali. 20

45. Our true Lord Shah Khalilullah Ali.

46. Our true Lord Shah Hasan Ali.

47. Our true Lord Shah Aga Ali Shah.

48. Our true Lord Shah Aga Sultan Mahomed Shah the Giver.

Recognize him the present owner of the Imamat, the Master of the age, the Imam, the guide of the guides, the (Imam) in power, Aga Sultan Mahomed Shah the Giver, the Reliever of innumerable and crores of persons, the present owner of the Imamat. O Shah, accept my supplications in Thy presence by virtue of the privilege Thou possesseth, O our Master Aga Sultan Mahomed Shah. 25 30

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This Doowa is practically the same as the one in A. A's time D. A. 128 and A. S's time D. A. 129. except the necessary addition of the A. M. for the time being

Conversion of the Khojas to Mohammedanism.

Now Khojas originally were Hindus of the trading class inhabiting the villages and towns of Upper Sind. Their language is Sindi or Kutchi, a cognate dialect, and such ancient religious works as they possess are written in the Sindi character and language. Sind, an early Mohametan conquest, has long had and still has a large Mohametan population, but a considerable portion of the retail and wholesale business of the country has always remained in the hands of the Hindus. The position and circumstances of these remote and isolated Hindu traders were manifestly such as to favour their conversion to some form or other of Mohametanism. It must be taken as established now that they were so converted by Pir Sadrdin about 442 years ago. And according to the traditions of the great body of the Khoja Community Pir Sadrdin came from Khorasan and was an Ismaili Dai or missionary, sent by Shah Islam, one of the ancestors of Aga

Khan

Khan and the form of Mahomedanism which he taught his converts was the Shia Imami Ismaili faith.

In the well known case decided by Sir J. Arnould, 12 Bom. H.C. Rep., 323, that learned Judge sets out the various arguments for holding that Pir Sadrdin was a Dai or missionary of the hereditary Imam of the Ismailis probably Shah Islam and that he converted the first Khojas to the Imami Ismaili form of Mahomedanism. To my mind the arguments he there adduces are such as no attempt has been made on the part of the Plaintiff to shake in the present case.

Now it is admitted in this ~~present~~ case that the followers of the Aga Khan are not necessarily limited to Khojas and we find that his followers are to be discovered in Persia, Arabia, Zanzibar, Sind, Kutch, Bombay, Calcutta, Rangoon and other places

Followers of the Aga Khan

See the evidence of Ref 1. & that of his various witnesses who have lived without his influence

4(27)

places. It has also been proved in this case that for many years past the followers of the Aga Khan had been in the habit of making large voluntary contributions to their Sirkar-Sahib i.e. Lord and Master out of religious feelings to the Imam for the time being of the Ismailis whom they revere as their Hazar Imam ~~shed~~ or ~~their~~ spiritual head. ~~The chief of these contributions is that~~ is called "Dussoon", namely a percentage of the income of the followers, and contributions are sent on the occasion of births, marriages and deaths in the Community, at the New Moons etc., and in ~~recent~~ more recent years these remittances have been made by hundies and the acknowledgment of them made out in the name of the Aga Khan ~~for the time being alone~~ ~~Kuwam~~

I give a list of the hundies with the main names of those to the b. the below.

L.P.R.

known as Talika. Not only this but the evidence in this case shows that the followers of the Aga Khan have for many years past been in the habit of making pilgrimages to Dukhana ~~that~~ i.e. the principal residence of the Imam of the Ismailis for the sake of beholding and doing homage to the Aga Khan their spiritual chief. The evidence in this case shows that all these payments were made under headings such as "Sirkar-Sahil," "Pir Salamat," etc, which though varied in form all indicate one and the same appropriation, an appropriation namely to the Imam of the Ismailis as the Murshed or Spiritual head of the Community. The offerings, it appears from the evidence to have

Pir Sadrudin and Pir Habirudin wrote the Granths which have been put in evidence. The Dasaftar, as gathered from the

Pir Sadrudin.

The Dasaftar, as Sir Joseph Arnould says, is a treatise in ten chapters containing as its name imports the account of ten Avatars or incarnations, each dealt with in a separate chapter. The first nine chapters treat of the nine incarnations of the Hindu god Vishnu. The tenth chapter treats of the incarnation of the most holy Ali. ~~A large number of the~~ I state hereafter the upset of some of the Granths which were put in evidence before me ~~on behalf of~~ as supporting the contention on behalf of Deft: that his followers were enjoined by them to make offerings to him alone.

In my opinion the Dasaftar ~~and the Granths~~ as might be expected

expected are the outcome of an astute and clever brain. The object of the author was to convert the Hindus to Mohamadanism and the way in which he does this is by recounting the various avatars of the god Vishnu until he finally comes to Ali the son-in-law of the Prophet Mohamed. As we see in so many forms of religions, the author adopted the process of evolution. The same process can be traced through the various forms of serpent worship down to the time when the serpent is said to have tempted Eve in the Garden of Eden. The same process of evolution is to be seen in the various religions, the first forms of which spring from the form of the Lingam and the Yoni, and by a process of evolution and improvement ends in the idea of an Immaculate Conception. So, again, amongst the

Hindus

Hindus there is a ceremony, at which I myself was many years ago present, wherein the leaves of the nim-tree were crushed into a powder and handed round to the assembled community of fakirs who were bidden to eat the body of Shiva, a ceremony which by the process of evolution has resulted in what the Christian Church knows as the Holy Communion. In the Gnans we find the doctrines of Mahomet as disclosed in the Koran largely prevalent. The oral evidence in this case affords a striking example of the theory I am advancing. Three witnesses were called before me who belong to what are known as Guptis. They are unquestionably Shiah Imami Ismailis. But they certainly adhere to some of the Hindu practices,

for

for instance they do not circumcize their males and they burn their dead but they are true followers of the Aga Khan; and one could not help being struck with the dramatic aspect of the situation when two of those Guptis said that they had made a Mehmani to the present Aga Khan in the Ritz Hotel in Paris in the shape in the one case of 50 English sovereigns and in the other of French notes of the value of £4 sterling.

During the progress of this case ~~it~~ I confess it struck me as a strange thing that there should be any antagonism between the Sunnis and the Aga Khan and his followers, for in my opinion by the conversion of a large number of Hindus known as Khojas there have been received into the Mohamedan faith a large body of well-to-do, respectable and

physically

physically powerful members of the Community, who, had it not been for their conversion by Pir Sadrudin and Pir Rabirudin, must have remained followers of the Hindu religion, which, of course, is absolutely different from the Mohamedan.

~~"Jamat" means spiritual ship or, in other words, Supreme Religious Pontiff.~~

"Mukhi" is the spiritual head or hereditary head of the Jamat Samaj.

"Jamat" is the congregation of the faith, the assembly is composed of all the adult male members of the religious community of the place.

"Jamat-khana" is the Community house or public hall of the Community.

The offerings to the Pirs are to me matters of no outward "Jamaat Khana" (note to Travels of Ibn Batuta 1903. p 146 & 147.) are in many respects analogous similar to the well-known Peter's Pence which long offered to the P.S.G. for so many years. Hence the worship of a supreme Saint to whom the man in charge of Mohammedanism (or as it might be called Christianity) is the Priest is analogous to the Immaculate or worship of the supreme Saint to Mary the mother of Christ in the West.

Allen page 21.

Historical facts in history of the A. Ks.

Hassan Ali, the first Aga Khan ~~a little~~ [which Defendant 1 tells us ~~[illegible]~~ is not a little bit [illegible] of "this" a bit name than H. A. was a long man] ——— was the son of Khalilulla, who was murdered at a city of Yezd in Persia in A.D. 1817 in one of those brawls which are so ~~[illegible]~~ common in Persia. The then Shah of Persia Futteh Ali Shah severely punished the assailants in the fray and conferred upon Hassan Ali large possessions, the government of the districts of Koom and Mahelati, and the hand of one of his daughters in marriage. This action of the Shah was no doubt prompted by his dread lest he should be held responsible by the Ismailis for the death of their sacred Chief. The next we hear of Hassan Ali is in 1838 when apparently he revolted against the Shah of Persia and seized the government of Kerman where he himself

himself had numerous followers. The reason for his revolt was apparently that a favourite of the Prime Minister of Persia demanded in marriage for his son one of the daughters of Hassan Ali, who would be of course the grand-daughter of the late Shah. The Prime Minister backed up his favourites demand which was indignantly refused. Hassan Ali kept up his revolt till 1840 when overpowered by numbers he with difficulty escaped through the deserts of Beluchistan to Sind, where he was hospitably received. In Sind he found no money difficulties to contend with for the Khojas there had always been his most zealous followers and from them and the other Khojas in the various parts of the East he received ample supplies. He raised a body of light-horse who during the latter stages of the Afghan War in

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