

**Agency in the Colonial Courtroom: Lawsuits and Justice Claims  
in Late Eighteenth-Century Azamgarh**

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***Abstract:**After the 1857 Revolt, the Government of India Act 1858 transferred judicial administration from the East India Company to the British Crown, ending the Company's dual court system. A key post-Revolt demand was the separation of the revenue officers (such as District Magistrates, who had doubled as judges) from judicial functions, to address widespread grievances over biased administration. This separation occurred gradually in the United Provinces. Concurrently, Indian subordinate judges and Munsiffs gained expanded authority in civil matters. This paper analyses three archival lawsuit files from Azamgarh (1868–1869), preserved in the Uttar Pradesh State Archives, Lucknow: Reoti Singh and Others vs. Government (1868), Dussoo Assoodah Bibi vs. Government (1868), and Sheikh Villayat Hussain and other zamindars of mouza Doogowlee (pargana Sikandarpur) vs. Collector (1869). These land disputes reveal a common pattern: ordinary Indian families sought to reclaim properties appropriated by the colonial state through legal technicalities and administrative maneuvers. Drawing on primary archival records and secondary sources, the study compares the British handling rooted in "abstract" general principles and official documentation with earlier Mughal judicial practices. It illustrates law as a dynamic, contested process in post-1857 colonial governance, where cases were adjudicated differently yet consistently favoured the government.*

**Keywords:** Bengal, Company, Colonial, Governance, Mughal etc.

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**Introduction**

The examination of Neeladri Bhattacharya on colonial governance in North India in 1860s is read alongside the study of law by Jon Wilson in the late-eighteenth century Bengal, some quiet but important similarities stand out. Bhattacharya characterises the animating principle of imperial authority as a relentless pursuit of certainty and internal coherence.<sup>1</sup> Wilson, in a closely analogous formulation, describes the distinctive shape assumed by early Company

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rule as emerging from an equivalent drive to establish stable and enduring categories of governance.<sup>2</sup> Thus, the colonial state replaced the Mughal empire and its regional successors, it sought to reconfigure these social relations of negotiation through revenue settlement and rural education.<sup>3</sup> This reform was not just about raising revenue. More importantly, it was part of a larger colonial effort to transform ordinary Indians into a new kind of legal subject but people who were expected to understand the law and obey it without question.<sup>4</sup>

The Mughal law enabled a remarkably systematic administration. They recognised that the effective enforcement of law and the administration of punishment were among the most delicate and demanding responsibilities of governance which required careful judgment and discernment.<sup>5</sup> When the Muslim legalists started formulating theories, local requirements attracted their attention. Gradually *urf*<sup>6</sup> or '*adat*<sup>7</sup> came to be recognised as part of the sources of law.<sup>8</sup> Cases were systematically classified into distinct jurisdictional categories i.e. matters pertaining to land revenue were assigned to revenue officials and *subadars* for adjudication, whereas all criminal cases falling within the purview of any provision of the Indian Penal Code were required to be determined strictly in accordance with the stipulations of that code.<sup>9</sup> Muslim jurists acknowledged the need for state-made legislation and incorporated governmental laws i.e. *zawabit* or *qanun* within the broader category of '*urf* or '*adat*, which also encompassed the local customs, thereby granting them formal religious sanction.<sup>10</sup> Along with the state laws, Mughals concentrated on persistent processes, localised contests, and the dense interconnections between imperial sovereignty and subaltern loci of authority, the analysis demonstrates that Mughal rule was not merely imposed from above but was sustained, reproduced, and concretely manifested through the systematic incorporation and articulation of local power networks.<sup>11</sup>

During the period no comprehensive manual of state laws was prepared, but the rules and regulations, and *farmans* of instructions which are given in the *Ain-i-Akbari*, *Zawabit-I 'Alamgiri*, *Mir'at-I Ahmadi* and other *dasturu-I 'amals*, chronicles and accounts of the period, indicate that in certain spheres of life the Mughals did in practice add to, and change the laws laid down by the shari'at.<sup>12</sup>

On the other hand, British district judges hearing appeals from *munsiffs* of lower courts rarely carried out fresh field inquiries. Instead, they typically decided cases by applying formal evidentiary principles i.e. such as the preference for written over oral evidence or by closely scrutinizing the existing case records to assess the reliability of the arguments presented by plaintiffs, defendants, and the Indian judges below.<sup>13</sup> The

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institutional and processual arrangements of power the arrangements that enabled the British to dominate an indigenous society and within that society, Indian local controllers to command its resources.<sup>14</sup> Confined to their offices in urban centres, British officials occasionally found themselves in conflict with one another while handling the continuous stream of petitions submitted by the local population. A clear illustration of this tension is provided by the experience in Azamgarh which can be seen in three different suit files.

### Suit of Reoti Singh and others versus Government

This case concerned a dispute over ancestral land in a *chhatri zamindar* family of Mehnajpur village, Azamgarh district.<sup>15</sup> The appeal filed by Reoti Singh and others against the Government (representing the estate of the deceased Oodit Singh). The *Munsiff* of Azimurh had partly allowed the plaintiffs' claim by awarding them 4 *bighas*, 10 *biswas*, 1 *dhoor*, and 17½ *kachwans* of land while rejecting the remainder of their demand for 12 *bighas*, 10 *biswas*, and 4 *dhoors*.<sup>16</sup>

After the 1857 rebellion, the British government confiscated the property because Oodit Singh, a member of the family and also the *malik* of the land had been convicted for supporting the rebel leader Sangram Singh.<sup>17</sup>

The plaintiffs claimed that the land was joint family property and not the personal property of Oodit Singh. His name appeared alone in the revenue records only because he was the *karta* (head) of the joint Hindu family, which was the usual practice at the time.<sup>18</sup> They argued that the decision of the government for the entire land was unfair. The other family members had done nothing wrong and should not lose their rightful shares in the ancestral property. Their demand was simple i.e. the court should release their portions from government control and restore them to the innocent co-owners.<sup>19</sup>

The *Munsiff* of Azamgarh delivered a partial decree in favour of the plaintiffs thus confining relief to three brothers (Purmeshwar, Deoki, and Denoo Singh) of Oodit Singh and awarding them a modest extent of 4 *bighas*, 10 *biswas*, 1 *dhoor*, and 17½ *kachwans* only. The substantially larger claims advanced by Reoti Singh and Moti Kaur were wholly rejected. On appeal, the lower appellate court confirmed the judgment of the *Munsiff* holding that the contemporaneous revenue records and earlier judicial determinations conclusively supported the restricted allotment made by the trial court. The oral evidence and genealogical assertions

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put forward by Reoti Singh and Moti Kaur were discarded for want of any corroborative documentary evidence.<sup>20</sup>

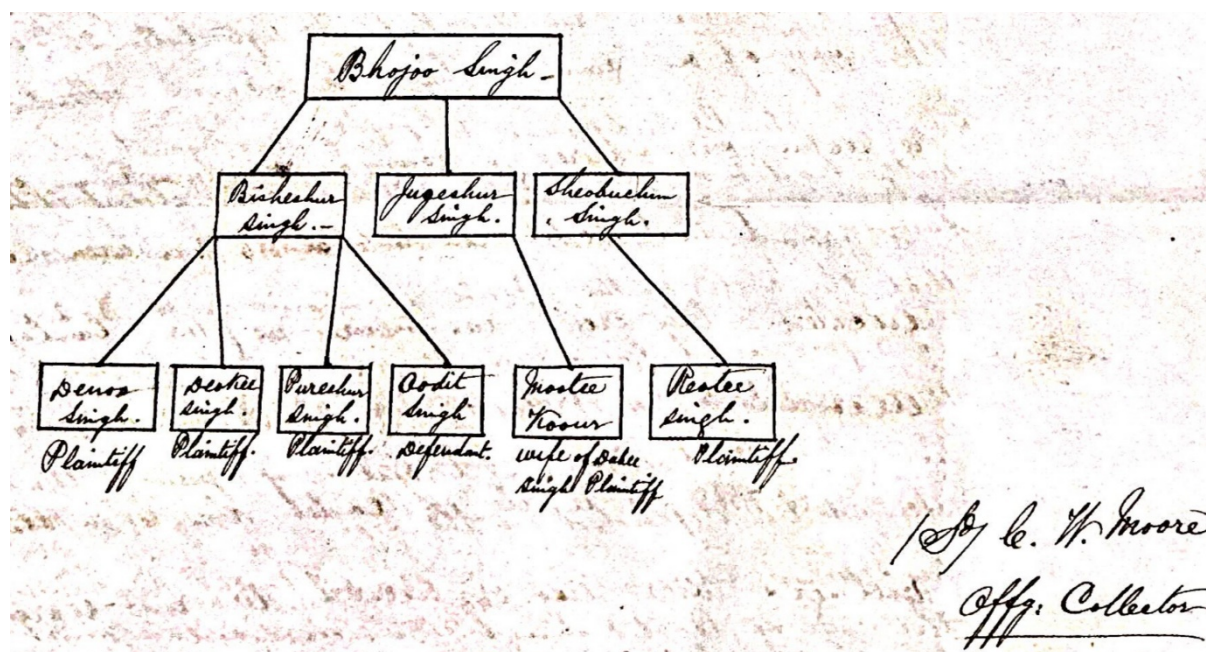


Figure 1<sup>21</sup>

It was further observed that the three brothers had already been granted precisely the share they had themselves originally demanded on 20<sup>th</sup> February 1864 and no ground existed for enhancing their portion. The claims of Reoti Singh and Moti Kaur stood entirely dismissed, their names being absent from all official records and their allegations remaining unsubstantiated. Accordingly, the courts below upheld the stand of the Government that the suit was without foundation and appeared to be a collateral attempt to secure indirect benefit for the family of the convicted rebel Oodit Singh.<sup>22</sup>

The appeal was rejected and the appellants had to pay court costs. Three brothers of Oodit Singh got only the small piece of land they had originally asked for. Reoti Singh and Moti Kaur received nothing because they could not show proper proof for their bigger claims. The rest of the land remained with the government. Like many cases of that time, the British-era courts trusted written records far more than family stories or old customs when deciding who really owned joint family property.

The government relied strictly on old revenue records and thus refused to recognise unlisted family members as owners and labelled the lawsuit as a shady scheme. As a result, they released just a tiny plot around 4 *bighas*, 10 *biswas*, 1 *dhoor*, and 17½ *kachwans* to the brothers, while holding onto most of the seized land. The real manipulation wasn't the outright illegal acts but exploiting British legal standards for proof and official distrust of

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'rebel-linked' families to squash wider joint-family rights and maintain the grip of the government on the property.

### **Suit of Dussu and Asooda Bibi versus Government**

This suit was a simple attempt by a poor cultivator Sheikh Dussu to save two small gardens and three clumps of bamboo together worth only Rs 39 from being sold at auction.<sup>23</sup> Sheikh Dussu claimed he had planted the gardens and looked after the bamboo for about eight years. He argued that the recorded owner i.e. a destitute woman named Asooda Bibi had no real interest in the land and therefore the government should not sell it to recover an old court-cost decree against her. He therefore sued both Asooda Bibi and the Government, asking the court to declare that the property was his and could not be attached.<sup>24</sup>

The decision of government officials and lawyer was that the gardens and bamboo had never been formally attached or put up for sale. After the earlier cost order was reduced on review, the authorities decided to recover the money by attaching the decree itself instead of the land. The local *tehsildar* confirmed that the gardens and bamboo were left untouched and still stood in the name of the Asooda Bibi. The Government simply asked the court to throw out the suit of Sheikh Dussu saying that he had no cause of action against it.<sup>25</sup>

In this suit, the Government used a technical defence i.e. 'we never actually attached this piece of land' together with its own internal records to block the case. By insisting that the property legally belonged to the very woman whose debts they were recovering, they quietly choose to not sell it. The authorities avoided any real examination of the long possession of Sheikh Dussu. In this way, a poor farmer like Sheikh Dussu found their improvements and years of work on the land ignored, while the colonial administration kept full control over such tiny holdings without having to justify its actions in open court.

### **Suit of Sheikh Villayat Hussain and other *zamindars* of *mouzah* Doogowlee and *pargana* Sikandarpur Versus Government**

This suit concerned a valuable orchard of roughly 30 *bighas* in the *mouzah* Doogowlee, *pargana* Secunderpur, Azamgarh. The *bighas* were used by the colonial government for many years as a military camping ground without formally acquiring it or paying compensation to the owners.<sup>26</sup> The plaintiffs are Sheikh Morad Ali, Sheikh Vilayat Hussain,

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and other local *zamindars* who brought the suit against the Collector of Azamgarh. They stated that the garden i.e. plots 1 to 5, measuring about 30 *bighas* and 2 *biswas* was their ancestral property and that they had always paid the land revenue on it, cultivated it and taken its fruit. They complained that the authorities had simply occupied the orchard for military purposes<sup>27</sup>, prevented them from using or cutting the trees, and then refused to return it even after the camp was rarely needed. The *zamindars* therefore asked the civil court to declare them the as the rightful owners denying on the orders of the Collector on November 1867 and the order of Commissioner on January 1869 and restore full possession to them.<sup>28</sup>

The Government defended its long occupation by pointing out that the land had been used as an encamping ground for over twelve years without any protest from the *zamindars*. In the eyes of the officials, this silence amounted to consent. Officials also said that the original records of any acquisition had been lost or destroyed and the surviving public records did not clearly show the title of the *zamindars*. They argued that the burden was therefore on the villagers to prove their case. At the same time, the Government narrowed its own claim and thus insisted that it only wanted the right to camp on the land when needed and not ownership of the trees or fruit, so the evidence of the *zamindars* about harvesting mangoes did not disprove the limited rights of the Government.<sup>29</sup>

After prolonged correspondence, the Commissioner sought reports from local revenue staff, but initially upheld the refusal to release the garden. Eventually, the Government of the North-Western Provinces quietly admitted that the land had never been formally taken over and that its legal position was weak. But later the Lieutenant Governor therefore decided to relinquish the orchard and hand it back to the *zamindars* because luckily, they produced the documental evidence to the court.<sup>30</sup>

In practice, the authorities had managed to keep the garden for decades by relying on missing documents, treating the silence of the *zamindars* as agreement. Only when continued occupation became difficult to justify in court did the Government choose to ‘give up’ the land. The decision to return it was thus less an admission of wrongdoing rather than a pragmatic withdrawal.

### Conclusion

When we look at these three lawsuits from Azamgarh side by side a clear pattern emerges. They show how the British colonial system with its obsession for clear paper proof and fixed rules, quietly took the land rights away from ordinary Indian families while appearing to be

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fair and lawful. Under the earlier Mughal rule, local customs (what people called '*urf*' and '*adat*') were respected. A *Qazi* or governor would listen to village elders, look at long-standing practice, and often let things continue the way the community had always done them. But the British wanted everything written down, stamped, and entered in official registers. If your name was not in the revenue record, or if there was no old government paper proving your right then the courts treated you as if you had no right at all, no matter how many years your family had farmed the land, shared it, or planted trees on it.

This new demand for 'documentary certainty' worked heavily in the favour of the Government in all three cases. Be it in Reoti Singh lawsuit of family dispute, the judges accepted the old British-made revenue records as almost sacred. Anyone whose name was not written there even brothers or widows in a joint Hindu family was treated as a stranger who were trying to cheat the system. The court called their claim to be 'collusive' and thus released only a tiny plot to three brothers and left the rest of the confiscated estate safely within the government hands. In the lawsuit of Sheikh Dussu, a poor cultivator who had planted and cared for two gardens and some bamboo for eight years was simply brushed aside. The government lawyers said, 'We never formally attached this piece, so there is nothing to complain about.' With that single technical sentence, they avoided any real discussion of hard work and long possession of Dussu and thus kept full control over whether the land would ever be sold or not. In the *mouzah* Doogowlee orchard matter, officials held on to a valuable 30 *bighas* of mango garden for decades just by saying, 'Our old files are lost' and 'You never protested earlier, so you must have agreed.' They claimed only a limited 'right to camp' (not full ownership) which made it hard for the *zamindars* to fight back. Only when higher officers realised the case could not be defended in court did the government quietly 'give up' the garden not because it admitted wrongdoing, but because continuing to fight had become risky.

Taken together, these small and ordinary lawsuits involving a few *bighas*, there reveal something much larger. Behind the British talk of justice, reason, and impartial law lay a powerful but hidden weapon i.e. the control over what counted as proof. Village memory, family tradition and years of actual farming were declared irrelevant unless they appeared in the files of states. In this way, the colonial government slowly erased many existing rights, silenced local voices and gathered more and more land and authority into its own hands, all while claiming to be merely following the rules. Thus, in this paper it is interpreted that what happened in these courts was not just a difference in legal systems but it was a deliberate

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choice to value paper over people. The British rulers were not simply ‘mistaken’ or ‘strict’ rather they built a system that almost always rewarded the side with the bigger file cabinet.

## Notes and References

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- <sup>2</sup> Wilson, Jon E., *The Domination of Strangers: Modern Governance in Eastern India, 1780– 1835*, Basingstoke: Palgrave Macmillan, 2008, p.105.
- <sup>3</sup> Fei, Du, ‘Know Your Rights: The (un)making of the colonial legal subjects in rural North India, circa 1770–1857’, *Modern Asian Studies*, Volume 1, 2022, pp. 69-70.
- <sup>4</sup> For two classical accounts of the genesis of British colonial revenue policies in North India, see Sulekh Chandra Gupta, *Agrarian Relations and Early British Rule in India: A Case Study of Ceded and Conquered Provinces (Uttar Pradesh) (1801-1833)* (New York: Asia Publishing House, 1963); Asiya Siddiqi, *Agrarian Change in a Northern Indian State: Uttar Pradesh, 1819-1833*(Oxford: Clarendon Press, 1973); for an account that connects the fiscal consequence of British revenue policies to the 1857 Rebellion, see Gautam Bhadra, ‘Four Rebels of 1857’, in *Selected Subaltern Studies*, ed. Ranajit Guha, Gayatri Chakravorty Spivak, and Edward W. Said (New York: Oxford University Press, 1988), pp. 129-75.
- <sup>5</sup> *A’in*, p.196, 263; *Mir’at*, I, p.166. A Medieval treatise on polity (*Fatawa-i-Jahandari*) of Barani lays down that King should know the appropriate occasions for both forgiveness and punishment. Tr. Afsar Salim and Muhammad Habib, *Political Theory of Delhi Sultanate*, Delhi, p.56.
- <sup>6</sup> Local customs or everyday practices that people in a community or area commonly accepted and followed.
- <sup>7</sup> Customs or time-honoured traditions deeply rooted in the everyday life and social norms of a particular community or local region, passed down over generations.
- <sup>8</sup> Bilgrami, Rafat M., *Religious and Quasi-Religious Departments of the Mughal Period 1556-1707*, Munshi Manoharlal Publishers Pvt. Ltd, Aligarh Muslim University, 1984, p. XVIII.
- <sup>9</sup> probably the purpose of despatching the penal code in the name of the diwan was to emphasise that he (the *diwan*) and not the *qazi* was being made responsible for dispensation of these cases.}
- <sup>10</sup> According to Bada’uni, Sur Kings issued instructions on all important points of religious and civil administration ‘all these points were written in these documents whether agreeable to the religious law or not; so that was so necessity to refer any such matter to the qazi or mufti, nor was it proper to do so’. Bada’uni. I, p.496.}. The existing conception that the Mughal rulers administered the Islamic penal laws only, is wrong. Further, the comment of the foreign travellers that there were no written laws is also misleadings. De Laet. P.94
- <sup>11</sup> Hasan, Farhat, *State and Locality in Mughal India, Power relations in Western India, c.1572-1730*, Cambridge University Press, Cambridge, 2004, Introduction, p.1.
- <sup>12</sup> Bilgrami, *Religious and Quasi-Religious Departments*, p. 170.
- <sup>13</sup> North-Western Provinces Zillah Courts Decisions: December 1854, n.d., Zillah Gorakhpur, Case No. 67, p. 275.
- <sup>14</sup> Yang, Anand A., *The Limited Raj Agrarian Relations in Colonial India, Saran District, 1793-1920*, University of California Press, London, 1989, Introduction.
- <sup>15</sup> *Misl No./File No. 18, Board of revenue, United Provinces, N.W.P. Records Azamgarh, Subject Suit of Reoti Singh and others versus Government*, Lucknow Archives, p.14.
- <sup>16</sup> *File No. 18, Suit of Reoti Singh and others*, 1-3.
- <sup>17</sup> *File No. 18, Suit of Reoti Singh and others*, 7.
- <sup>18</sup> *File No. 18, Suit of Reoti Singh and others*, 10.
- <sup>19</sup> *File No. 18, Suit of Reoti Singh and others*, 12.
- <sup>20</sup> *File No. 18, Suit of Reoti Singh and others*, 5.

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<sup>21</sup> *File No. 18, Suit of Reoti Singh and others*, 16.

<sup>22</sup> *File No. 18, Suit of Reoti Singh and others*, 11.

<sup>23</sup> *Misl No./File No. 19, Board of Revenue, United Provinces, N.W.P. Records Azamgarh, Subject Suit of Dussu and Asoodah Bibi versus Government*, p.1

<sup>24</sup> *File No. 19, Suit of Dussu and Asoodah Bibi versus Government*, 2.

<sup>25</sup> *File No. 19, Suit of Dussu and Asoodah Bibi versus Government*, 3.

<sup>26</sup> *Misl No./File No. 17, Board of Revenue, United Provinces, N.W.P. records Azamgarh, Suit of Sheikh Villayat Hussain and other zamindars of mouzah Doogowlee and pargana Sikandarpur versus Government*, Lucknow: Uttar Pradesh State Archives, p.1

<sup>27</sup> *File No. 17, Suit of Sheikh Villayat Hussain and other*, 2.

<sup>28</sup> *File No. 17, Suit of Sheikh Villayat Hussain and other*, 3.

<sup>29</sup> *File No. 17, Suit of Sheikh Villayat Hussain and other*, 2-6.

<sup>30</sup> *File No. 17, Suit of Sheikh Villayat Hussain and other*, 8.