IN THE DISTRICT COURT OF THE UNITED STATES

IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SOUTHERN DIVISION.

THE UNITED STATES OF AMERICA,

PLAINTIFF,

vs

SAKHARAM GANESH PANDIT,

DEFENDANT.

MEMORANDUM OPINION.

No.G-111-T.

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Joseph C.Burke Esq.,United States Attorney, and J.E.Simpson,Esq., Assistant United States Attorney, of Los Angeles,California, for the Plaintiff.

Newby and Palmer,of Los Angeles,California, for the Defendant.

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That the defendant herein falls within a class of aliens who are ineligible for naturalization cannot longer be questioned. U.S. vs Thind, 261 U.S. 204.

The Supreme Court of the United States in the Thind case,supra,inferentially at least,indicates that while a person may belong to a class of aliens ineligible to citizenship there may be peculiar and individual circumstances and conditions that would enable a Court of Equity to withhold and deny cancellation of a naturalization order previously made.

The answer of defendant herein contains a special defense of equitable estopple and there is no reason apparent to me why this salutary and beneficial doctrine cannot be invoked against the Government in a proper case.

The answer of the defendant in the fourth special defense thereof avers facts which if established might furnish sufficient grounds for relief in this action. I am satisfied that the defendant should be permitted to interpose such plea

of equitable estopple and the Court after a full hearing has the power to make a decree in accordance with the requirements and exigencies of the case.

The motion of plaintiff to strike out pleas of defendant is therefore granted and denied as follows:

Paragraph 3 of the first defense is stricken out.

That part of Paragraph 4 of the first defense beginning with the words "and defendant--" in line 9 of page 2 of the answer is stricken out.

The whole of the second defense is stricken out.

The whole of the third defense is stricken out.

The motion to strike out the fourth defense is denied.

And the whole of the fifth defense is stricken out.

United States District Judge.

Dated this 9th day of
January,1925.