

(1878) 05 AHC CK 0001

Allahabad High Court

Case No: None

Afzal-un-nissa

APPELLANT

Vs

Tej Ban

RESPONDENT

Date of Decision: May 27, 1878

Citation: (1875) ILR (All) 725

Hon'ble Judges: Turner, O.C.J.; Spankie, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Turner, Officiating C.J.

1. The document could not be received in evidence on payment of any penalty (see Section 28 of Act XVIII of 1869 and Nandan Misser v. Chatterbati 13 BLR Ap 33). It should not then have been received in evidence, but it having been admitted by the Court of First Instance, the lower Appellate Court was not justified in reversing the decree of the Court of First Instance and dismissing the suit, for the irregularity did not affect the merits. The decree of the lower Appellate Court cannot be supported on the ground on which it proceeds. The appeal to the Judge must then be tried on the merits, and if, as the appellant alleges, and as she proved to the satisfaction of the Court of First Instance, the note was given to induce the appellant to consent to the mutation of names, the consideration is sufficient, and the appellant will be entitled to a decree. The costs of this appeal will abide and follow the result.