

(1880) 04 AHC CK 0019

Allahabad High Court

Case No: None

Ghulam Mustafa

APPELLANT

Vs

Hurmat and Another

RESPONDENT

Date of Decision: April 27, 1880

Citation: (1880) ILR (All) 854

Hon'ble Judges: Pearson, J; Oldfield, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Pearson, J.

The provisions of the Muhammadan law applicable to gifts made by persons labouring under a fatal disease do not apply to a socalled gift made in lieu of a dower-debt, which is really of the nature of a sale. Case No. 21 in Macnaughten's Precedents of marriage, dower, divorce, and parentage is on all fours with the present case and entirely supports the decision of the lower Courts. The just claims of the heirs are not interfered with by the payment of debts which must be paid before the heirs can enter upon the inheritance. The lower Courts have found on the evidence that the executant of the deed in question in the present case was in his sound senses when he executed the deed; and from the medical evidence it is doubtful whether he was then labouring under the disease which caused his death shortly afterwards. The appeal fails and is dismissed with costs.