

(1869) 04 CAL CK 0010

Calcutta High Court

Case No: Special Appeal No. 1791 of 1868

Mutia Kolita

APPELLANT

Vs

Putona Kolita and Another

RESPONDENT

Date of Decision: April 9, 1869

Judgement

Norman, J.

It is clear to us, that the decision of this case must be reversed. The plaintiff sues to establish his title, under a deed of gift, of certain land obtained from the defendant. The lower Appellate Court holds, that the registration of the deed of gift is optional. This appears to be a mistake. The 17th section of Act XX of 1866 enacts that the whole of the instruments enumerated shall be registered, provided the property to which they relate shall be situate in the district to which the Act came into operation.

2. Among the instruments enumerated are instruments of gift of immoveable property. It is a little remarkable that in enumerating the documents, of which registration is optional, in section 18, after the word instrument in clause 1 the words "other than an instrument of gift," which are found in clause 2 of the 17th section, are not repeated, as they should have been, and as the sense seems to require. The words "instruments of gift of immoveable property" in clause 17 are not qualified in any way. They include all such instruments without any exception. We think that taking the two sections together, the meaning is that all instruments of gift of immoveable property must be registered, whatever be the value of the property. The decision of the lower Appellate Court is reversed with costs in this Court and in both the lower Courts.