

(1874) 07 CAL CK 0001

Calcutta High Court

Case No: None

In Re: Wynne,
Deceased

Vs

APPELLANT

RESPONDENT

Date of Decision: July 21, 1874

Judgement

Pontifex, J.

I regret that I am unable to grant this application for probate. The English Act requires that the witnesses shall "attest and subscribe" the will. The Indian Act requires that the witnesses shall "sign" the will. I am inclined to think that a signature by mark would be a sufficient signature by a witness even under the Indian Act, as it would undoubtedly be under the English Act. But the subscription in whatever form it may be, must be intended to be a signature by name, mark or description. I am of opinion that the khidmatgar did not write the Persian words "this is Mr. "Wynne"s signature" with the intention at the time that those words, or any of them, should be considered as his signature or mark. There are numerous English cases which show that those words would not be considered a sufficient subscription under the English Act. The last of such cases--In the Goods of Maddock L.R., 3 P. & M., 169--is a very late decision by Sir James Hannen.