

(1880) 03 CAL CK 0007

Calcutta High Court

Case No: None

Noban Nusya and
Another

APPELLANT

Vs

Dhon Mahomed

RESPONDENT

Date of Decision: March 1, 1880

Acts Referred:

- Registration Act, 1877 - Section 77

Citation: (1880) ILR (Cal) 820

Hon'ble Judges: Prinsep, J; Maclean, J

Bench: Division Bench

Judgement

Prinsep, J.

This was a suit brought u/s 77 of the Registration Act, III of 1877, to obtain a decree, directing the registration of a document which had been refused by the Registrar.

2. The document in this case was one falling within Section 17, Clause (b), and was a bynanama, declaring the right of the plaintiff to receive a conveyance within thirty days from the execution of that deed, or in default the bynanama should be considered as such conveyance.

3. The defendants, apparently, refused to execute the conveyance, and the plaintiff, more than four months after the date of the execution of the deed, applied for registration of the bynanama.

4. The District Judge, on appeal, considers that the right to obtain registration dated from the default of the defendants to execute the conveyance, and that the bynanama having then become a conveyance, the time for applying for registration commenced on that date. It is quite clear, however, that the view taken by the District Judge is erroneous, because Section 23 declares that, ordinarily, no document except a will "shall be accepted for registration, unless presented for that purpose to the proper officer within four months from the date of its execution."

5. No conduct of the parties, however much that might alter the character of the document, could affect the term of limitation laid down by this section. The deed not having been presented for registration within four months from the date of its execution, clearly could not be registered. The order of the District Judge is, therefore, set aside.