
(1875) 06 CAL CK 0004

Calcutta High Court

Case No: Special Appeal No. 1886 of 1874

Shaikh Ryasutulla

APPELLANT

Vs

Doorga Churn Pal

RESPONDENT

Date of Decision: June 2, 1875

Judgement

Macpherson, Officiating C.J.

1. We think that the decision of the Judge is wrong. S. 50 of Act XX of 1866 says that a registered document of which the registration was optional (i.e., falling under cl. 1 or 2 of s. 18) takes effect against an unregistered document relating to the same property. In this case it is sought to give effect to Doorga Churn Pal's registered bill of sale against the plaintiff's prior "unregistered mortgage.

2. The plaintiff's mortgage (dated the 28th Sraban 1277, or 9th August 1873) was for Rs. 95 only: therefore, under s. 18 it was not necessary to register it. The consideration for Doorga Churn Pal's bill of sale (dated 5th Assar 1279, or 18th Jane 1872) was Rs. 300; therefore, under s. 17 it was necessary to register it. Registration was optional in the case of the plaintiff's deed, but compulsory in the case of Doorga Churn Pal's. So that what the Judge has decided is that under s. 50 a registered document, the registration of which was compulsory has effect against a prior unregistered document, the registration of which was optional. But this is not what is enacted by s. 50 which says only that a document of the kinds mentioned in cls. 1 and 2 of s. 18 (i.e., one the registration of which is optional) shall have effect against any unregistered document. Doorga Churn Pal's bill of sale being a document the registration of which was compulsory, did not fall under s. 18 at all; therefore s. 50 has no application to it. This was so decided in the case of Hamed Bux v. Bindra Bun 2 All. H.C.R., 37, and the law remains unchanged in this respect by the new Registration Act of 1871, although the result is somewhat anomalous. The decree of the Judge is reversed and the decree of the Munsif is restored and affirmed. The appellant is entitled to his costs in this Court and in the lower Appellate Court.