

(1868) 03 CAL CK 0006

Calcutta High Court

Case No: None

In Re: Brindaban Chandra Shaw
and Nabadwip Chandra Shaw

APPELLANT

Vs

RESPONDENT

Date of Decision: March 23, 1868

Judgement

Norman, J.

The duty of the Registrar, when an instrument is presented at the proper Registration Office, by any person executing or claiming under the same, is clearly stated in the 36th Section¹. Thus if the parties to a deed appear in person before the Registrar, he has simply to ascertain whether the deed has been executed by the persons by whom it purports to have been executed. Mr. Eglinton referring to Section 82, contended that the Registrar has some discretionary power to refuse registration. There is no doubt that such is the case as regards instruments with unattested interlineations as provided for by Section 20, or if the description of the property to which the instrument relates appears to him insufficient to identify it as provided for by Section 21. It is enough to say that Section 36 gives no such direction. The language is distinctly imperative, and leaves no option whatever to the Registrar. The greatest injustice might be done if this were otherwise. The Registrar has, it is true, power to summon witnesses; but he has no power to try a cause or give costs, nor has this Court power to give costs in an appeal. The Registrar has no legal training to enable him to deal judicially with the equities which may arise as between a party claiming to have a deed registered, and one who having executed the deed, either denies his own solemn admission therein contained or contends that he ought not to be bound by the deed till some thing is done by the opposite party. If the Registrar might refuse to register any instrument, the grantee claiming under it would find himself placed in a great difficulty, because the 49th Section enacts that no instrument required by Section 17 to be registered, shall be received in evidence in any civil proceeding in any Court, or shall be acted upon by any public servant, as defined in the Indian Penal Code, or shall affect any property comprised

therein, unless it shall have been registered in accordance with the provisions of that Act. The case of *Rajchandra Bando v. Rajendra Dassi*, (Ind. Jur., 240), is in accordance with the view I take. There will be an order that the Registrar do forthwith register the instrument. No order as to costs.

¹He is to "enquire whether or not such document was executed by the person by whom it purports to have been executed, and in the case of any person appearing as a representative, assignee, or agent, to satisfy himself of the right of such person so to appear. If all the persons executing the document appear personally before the Registering Officer, and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, &c., the Registering Officer shall register the document as directed in Section 68."