

(1879) 07 CAL CK 0010

Calcutta High Court

Case No: None

Bonomalee Roy and  
Another

APPELLANT

Vs

Kristo Lall Ghose

RESPONDENT

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Date of Decision: July 24, 1879

Citation: (1880) ILR (Cal) 611

Hon'ble Judges: Tottenham, J; Romesh Chunder Mitter, J

Bench: Division Bench

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### Judgement

Romesh Chunder Mitter, J.

We do not see any reason for interference in this case.

2. The only point that we need notice is, that one of the bonds filed by the plaintiffs, viz., the bond for Rs. 599, not having been registered, was not admissible in evidence. This bond is dated the 8th Joist 1283 (20th May 1876). In support of this contention, the case of Sreemutty Matonginy Dossee v. Ramnarain Sadkhan (2 C.L.R., 428) has been cited. It appears to us that that case is quite distinguishable. On the other hand, the present case seems to us to be governed by the Full Bench decision in the case of Luchmiput Singh Dugar v. Mirza Kahairat Ali [4 B., L.R., (F.B.), 18], referred to in the decision cited before us, and which was distinguished by the learned Judges who passed it from the case which was then before them. The distinction between this case and the Full Bench decision referred to above, and the case cited before us, is, as shown by the learned Judges, that where the transaction is indivisible, and the registration of the document evidencing that transaction is compulsory, there the document is not admissible in evidence if it is not registered; but where the transaction is divisible, the same strict rule does not apply. For example, in this case the document upon which the plaintiffs rely is in the nature of a bond by which the defendant agreed to pay a certain sum of money with interest to the plaintiffs. It further provides that as collateral security for the loan advanced a certain property should remain hypothecated. This document for want of

registration would not be operative as regards the hypothecation, but it is admissible in evidence to prove that the defendant was liable for the loan advanced under it.

3. For these reasons, we are of opinion that there is no force in this contention. The appeal must, therefore, be dismissed with costs.