

## Musammat Fatma Bibi Vs Saadat Ali

**Court:** Bombay High Court

**Date of Decision:** Oct. 31, 1929

**Citation:** (1930) 32 BOMLR 485

**Hon'ble Judges:** Viscount Dunedin, J; Tomlin, J; George Lowndes, J; Buckmaster, J; Binod Mitter, J

**Bench:** Full Bench

**Final Decision:** Dismissed

### Judgement

Buckmaster, J.

The question on this appeal is whether the appellants are entitled to specific performance of a contract dated October 25,

1920, for the sale to them by respondents Nos. 2 and 3 of certain property in Mauza Sanwalpur Newada Pargana Saharanpur. Respondent No. 1

is a purchaser from the other respondents under an alleged contract of October 22, 1920. He undoubtedly obtained a conveyance of the property

on October 28, 1920, and was entered on the Register, but the appellants say this contract was not made on October 22, and that he obtained

registration with full knowledge of the appellants' rights. This claim was supported by the Subordinate Judge, but rejected by the High Court.

2. An examination of the facts has satisfied their Lordships that the judgment of the High Court is correct. At the material dates the vendors were

subject to a decree for the sale of the property, and a compromise decree had been passed directing them to lodge in Court Rs. 17,182-10-0 on

or before October 26, in order to escape interest and costs amounting to Rs. 600. It is stated in evidence, which their Lordships agree with the

High Court in thinking trustworthy, that, in order to obtain this money, the vendors on October 22, 1920, entered into a contract for the sale of the

property to respondent No. 1, and a receipt given on that date appears on the face of it to be perfectly in order. The purchaser had not got the

money with him, and it was necessary that he should go away some short distance to his wife, who seems to have had charge of the funds. He

went away, but did not immediately come back. Meanwhile the vendors were becoming extremely anxious about their ability to obtain the money

necessary to pay the decree., and proceeded to enter into another contract on October 25 with the present appellants. After that, on October 26,

the original purchaser returned. The money was paid into Court on October 28, the property was released, and on that date conveyed to the

original purchaser, respondent No. 1, and his purchase was registered. Their Lordships do not think there is any doubt that the original purchaser

had knowledge by telegram and otherwise of the transactions that had taken place, which culminated in this contract of October 25. That appears

to be wholly immaterial, because he was entitled to rely on the earlier contract, and by virtue of that contract he obtained the purchase and had it

duly registered. The reasons given by the High Court appear to their Lordships to be irrefutable and they need not be repeated. The whole appeal

depends upon the existence and validity of the contract of October 22.

3. For these reasons their Lordships will humbly advise His Majesty that this appeal be dismissed.

4. The appellants will pay to the first respondent such costs as he has properly incurred.