

Atma Ram and ors. Vs. Ugra Sen and ors.

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SooperKanoon Citation : sooperkanoon.com/460592

Court : Allahabad

Decided On : Dec-16-1912

Reported in : (1913)ILR35All134

Judge : Henry Richards, Kt. C.J. and ;Tudball, J.

Appellant : Atma Ram and ors.

Respondent : Ugra Sen and ors.

Judgement :

Henry Richards, Kt. C.J.

1. The only question which has been argued here is whether the documents, the foundation of the present suit, were or were not duly registered. It appears that the documents were brought to the Sub-Registrar by persons who were not duly authorized to present the documents for registration in the manner prescribed by the Registration Act. It, however, also appears that on the same date, if not at the same time, the mortgagor, being a person who was entitled to present the documents for registration, came to the Sub-Registrar's office and admitted execution, and that thereupon the documents were in fact registered. The question is whether or not this amounts to a good presentation within the meaning of the Registration Act. There cannot be the least doubt that the mortgagor was present as an assenting party to the documents being registered. The question involved Was very fully argued before a Full Bench of this Court in a recent case. At the

conclusion of the arguments, however, the case turned on another point and no decision was actually given. Practically speaking precisely the same question arose in *Karta Kishan v. Har Narain* (1912) I.L.R., 35 All., 72., and a Bench of this Court decided on the 15th day of November, 1912, that registration under circumstances very similar to those of the present case was a good registration. In my opinion where it is shown that prior to the registration of the document by the duly authorized official, a person who was competent to present the document for registration was present before the Sub-Registrar assenting to the registration the Registration Act is sufficiently complied with. I have nothing to add to the views which I expressed in the decision to which I have referred.

Tudball, J.

2. I fully concur. It seems to me quite clear that the present case comes well within the principle which is set forth in the decision of their Lordships of the Privy Council in *Mujib-un-nissa v. Abdur Rahim* (1900) I.L.R., 23 All., 233. Their Lordships therein observed: 'When the terms of Section 32 are considered with due regard to the nature of registration of deeds, it is clear that the power and jurisdiction of the Registrar only come into play when he is invoked by some person having a direct relation to the deed.' In the present case it is perfectly clear that, prior to the registration, the mortgagor, who was a person having a direct relation to the deed, did come forward and invoke the Registrar to exercise his power and jurisdiction, and this action was tantamount to a presentation for registration. I do not think that there is any magic in the mere physical handing over of the document.

3. The order of the Court is that we allow the appeal, set aside the decrees of the two courts below and remand the case to the court of first instance, through the lower appellate court, with directions to re-admit the suit under its original number in the file and proceed to hear and determine the case on its merits. Costs here and in the courts below will be costs in the cause.