

APPELLATE CIVIL.

Before Rankin C. J. and C. C. Ghose J

NILABJABARANI DASI

v.

NANDARANI DASI.*

1930

March 11.

*Registration—Jurisdiction—Registrar—Sub-Registrar—Office—Amalgamation
—Conveyance—Indian Registration Act (XVI of 1908), ss. 30, 87.*

Where, in registering a conveyance dealing with various plots of land, only some of which lay within the local limits of his jurisdiction as Sub-Registrar, the Sadar Sub-Registrar, whose office had been amalgamated with that of the Registrar, had not stated that he was acting as Registrar, pursuant to a discretion under section 30 of the Registration Act,

held that the fact that he was entitled to act as Registrar made the registration of that instrument valid.

Baij Nath Tewari v. Sheo Sahay Bhagut (1) and *Jogeswar Narain Singh v. Rai Radha Rawan* (2) referred to.

SECOND APPEAL by the defendant.

The facts of the case, out of which this appeal arose, appear fully in the judgment.

Apurbacharan Mukherji for the appellant.

No one for the respondent.

RANKIN C. J. In this case, the defendant appeals from a decree, whereby a certain *kabālá* has been set aside. It appears that the consideration and *bona fides* of the document were attacked unsuccessfully before both the courts below; but, in the end, the plaintiff succeeded in getting a decree, setting aside the *kabālá* on the ground that the registration thereof under the Registration Act had been invalid. It seems that, at Berhampore, there was a Sadar Sub-Registrar, whose office has been amalgamated with

*Appeal from Appellate Decree, No. 652 of 1928, against the decree of Jogeshchandra Sen Gupta, Subordinate Judge of Murshidabad, dated Sep. 19, 1927, modifying the decree of Jnanendranath Ghosh, First Munsif of Kandi, dated Aug. 28, 1925.

(1) (1891) I. L. R. 18 Cal. 556.

(2) (1905) 3 C. L. J. 165.

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that of the office of the Registrar, and there is another Sub-Registrar at Berhampore, who is under the same Registrar, but in a different sub-district. There were 33 plots in this document and the first plot was in the jurisdiction of the Sadar Sub-Registrar, whose office was amalgamated with that of the Registrar of the district. Upon evidence, it has been held that this plot has no real existence and the other plots, being really situated within the jurisdiction of the Sub-Registrar of Berhampore, that is to say, not the Sadar Sub-Registrar but the other one, and, it having been registered by the Sadar Sub-Registrar, the document is said to be invalidly registered and ineffective. As to that, the question which arises has reference to the provisions of section 30 of the Registration Act that any Registrar may, in his discretion, receive and register any document which might be registered by any Sub-Registrar subordinate to him; and it may be pointed out that, in this case, the courts have come to the conclusion that, because the Sadar Sub-Registrar has not stated that he was acting as Registrar pursuant to a discretion under section 30, the fact that he was entitled to act as Registrar does not make the registration valid. It appears to me that this contention is not really supported by authority. In the well known case of *Baij Nath Tewari v. Sheo Sahay Bhagut* (1), the main question was whether the property had been substantially mis-described. The Chief Justice, Sir Comer Petheram, who took the view that the mis-description was not material, considered the question whether the registration by the officer, who was the Sub-Registrar and the Registrar, was not good in the circumstances. He pointed out that by section 51 one set of books only should be kept when the two offices had been amalgamated and that the registering officer "acts precisely in the same way if he registers a document in his discretion as Registrar as he would do if he registered it as Sub-Registrar." Consequently, in the case before him the document

was registered in an office and in a set of books which had been constituted and provided for registration of documents of this kind and, in those circumstances, the learned Chief Justice refused to hold the registration to be void. Again, in the case of *Jogeswar Narain Singh v. Rai Radha Rawan* (1), it was contended that the Sub-Registrar ought to have stated plainly in the registration endorsement that he registered the bond in the capacity of Registrar and reference was made to the case of *Baij Nath Tewari* (2), to which I have already referred. The comment made is that there was no expression of opinion by the Full Bench to support the contention that the Sub-Registrar ought to have stated plainly that he was discharging one of the Registrar's functions. But, in that case, having regard to the fee charged, it was held that the Sub-Registrar was acting under section 30. Upon the whole, it appears to me, in view of section 87 of the Registration Act, that this instrument, which has been found to be an instrument for consideration, is not shown to be invalid. The Registration Act has to be strictly construed; but there is a point at which it is unnecessary to multiply technicalities. In my judgment, in this case, the registration may be held to be valid.

This appeal is allowed. The decree of the lower appellate court must be set aside and the plaintiff's suit must be dismissed with costs in all the courts.

GHOSE J. I agree.

Appeal allowed.

G. S.

(1) (1905) 3 C. L. J. 165.

(2) (1891) I. L. R. 18 Cal. 556.

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