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only of the parties to it have executed it, that provision is made for disclosing the parties who have really executed the deed. A copy of the deed is to be made in a book, and there are to be indexes, and it is directed that "Index No. 1 shall contain the names and additions of all persons executing, and of all persons claiming under, every document copied into or memorandum filed in book No. 1 or book No. 3." So that anyone consulting the register would find a copy of this deed, and that the two sons only had executed it, and that the mother had not.

On these grounds their Lordships think that the decree of the High Court cannot be sustained, and they will humbly advise Her Majesty to reverse it, and to order that the appeal from the decree of the Judge of Barcilly to the High Court be dismissed, with costs, and that the last-mentioned decree be affirmed. The appellants will have the costs of this appeal.

Agent for the appellants: Messrs. Watkins & Lattey.

Agents for the respondents: Messrs. W. & A. Ranken Ford.

'APPELLATE CIVIL.

Before Sir Robert Stuart, Kt., Chief Justice, and Mr. Justice Turner.

MANOHAR LAL (DEFENDANT) v. GAURI SHANKAR (PLAINTIFF). *

Act XXXV of 1858, s. 9—Act XIX of 1873 (North-Western Provinces' Land Revenue Act), ss. 194, 195—Lunatic—Court of Wards.

S. 9 of Act XXXV of 1858 and s. 195 of Act XIX of 1873 do not render it imperative on the Court of Wards to take charge of the estate of a person adjudged by a Civil Court, under Act XXXV of 1858, to be of unsound mind, but merely confer on that Court a power so to do. Until the Court of Wards exercises that power, the appointment by the Civil Court of a manager of the lunatic's property, under s. 9 of Act XXXV of 1858, is valid.

THIS was a suit for possession of a six anna share in mauza Mahewapura, pargana Arail, zila Allahabad. This mauza was the joint and undivided property in equal shares of Gauri Shankar and his brother Har Shankar. Har Shankar sold a twelve anna share to Manohar Lal. One Dalthamman Singh brought the present suit on behalf of Gauri Shankar, alleged to have become a lunatic, to

* Regular Appeal, No. 34 of 1877, from a decree of Rai Makhan Lal, Subordinate Judge of Allahabad, dated the 18th December, 1876.

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set aside the sale so far as Gauri Shankar was concerned. The circumstances under which Dalthamman Singh came to sue were as follows :

On the 23rd June, 1874, a petition was presented to the District Judge of Allahabad by Narain Kuar, representing herself to be the aunt of Gauri Shankar, in which, after alleging that Gauri Shankar had become insane and incapable of managing his affairs, and that his brother Har Shankar was dissipating the joint estate, she prayed that the Court would hold an inquiry under Act XXXV of 1858, and would appoint a manager of the estate of the lunatic. An inquiry was accordingly made, and on the 14th August, 1874, Gauri Shankar was pronounced by the District Judge to be a lunatic, and Dalthamman Singh was appointed as manager of Gauri Shankar's estate.

The Court of first instance gave the plaintiff a decree.

On appeal by the defendant to the High Court it was contended by him that, inasmuch as the estate of the lunatic included property which subjected the proprietor, if disqualified, to the superintendence of the Court of Wards, charge of the estate devolved on the Court of Wards, and the District Judge had no power to appoint a manager, and Dalthamman Singh was not competent to bring the suit.

Babu *Oprokash Chandar Mukarji* and the *Junior Government Pleader* (Babu *Dwarka Nath Banarji*), for the appellant.

Mr. *Colvin*, *Munshis Sukh Ram* and *Ram Prasad*, for the respondent.

The judgment of the High Court, so far as it related to this contention, was as follows :

The Act (XXXV of 1858) declares that when a person possessing such property is adjudged to be of unsound mind and incapable of managing his affairs, the Court of Wards "shall be authorised to take charge of the estate," and that "in all other cases," except as otherwise hereinafter provided, the Civil Court shall appoint a manager of the estate. The Act it will be observed does not render it imperative on the Court of Wards to take charge of the estate, but merely confers on the Court of Wards authority to do so. Similarly, the 194th section of Act XIX of 1873 includes lunatic landholders among dis-

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qualified persons, and the 195th section of the same Act declares the Court of Wards competent in its discretion to assume or refrain from assuming the superintendence of the person or property of any disqualified person. If, as has been contended, we are to construe the 9th section of Act XXXV of 1858 as conferring on the District Court no authority to appoint a manager of the estate of a lunatic landholder, it follows that, where the Court of Wards abstains from exercising the authority conferred on it and taking charge of the estate, the property of the lunatic will be left unprotected. In our judgment this could not have been the intention of the Legislature, and the language of the Act admits of a reasonable construction which would avoid the anomaly. We consider that the term "in all other cases" applies not only to cases in which no part of the estate would subject the lunatic to the superintendence of the Court of Wards, but also to cases in which the Court of Wards, having authority to assume the superintendence of the property, has not exercised that power. Ordinarily, before appointing a manager in such cases, the District Judge should allow the Court of Wards an opportunity to declare its election, but we can conceive cases in which it may be essential for the protection of the estate that a manager should be at once appointed, and if subsequently the Court of Wards assumed superintendence, the appointment made by the Judge would thereupon be annulled. In the case before us it is not suggested that the Court of Wards has assumed charge of the estate, and we hold that the appointment by the Judge remains valid and entitles the manager to maintain this suit and to verify the plaint.

APPELLATE CIVIL.

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August 13.

Before Mr. Justice Pearson and Mr. Justice Turner.

MAN KUAR (PLAINTIFF) v. JASODHA KUAR (DEFENDANT).*

Contract—Consideration—Immoral Consideration—Void Agreement—Act IX of 1872 (Contract Act), ss. 23, 25.

M had for many years lived with G as his concubine. In consideration of such past cohabitation, G, by an agreement in writing dated the 25th March, 1869,

* Regular Appeal, No. 90 of 1876, from a decree of Maulvi Hamid Hasan Khan, Subordinate Judge of Mainpuri, dated the 10th July, 1875.