

*Before Sir George Knox, Knight, Acting Chief Justice, and Mr. Justice Griffin.*  
 SAIYED MAHMUD (DEFENDANT) v. MUHAMMAD ZUBAIR (PLAINTIFF).<sup>\*</sup>  
 Act No. III of 1877 (Registration Act), sections 21, 22, 76—Refusal to register—Suit to enforce registration—"Sufficient to identify the same"—  
*Jaidad*—Scope of section 21—Letters relating to immovable property.

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Where a letter purported to transfer immovable property and was presented as a non-testamentary document for registration which was refused on the ground that it contained no description of the property "sufficient to identify the same," held that the refusal was under the circumstances proper.

The provisions of section 21, Registration Act, are positive and imperative, and not merely directory.

THE facts of this case appear from the judgment.

Munshi Govind Prasad, for the appellant.

Mr. Abdul Raoof and Maulvi Ghulam Mujtaba, for the respondent.

KNOX, A. C. J. and GRIFFIN.—This appeal is from a decree passed by the Subordinate Judge of Ghazipur in a case in which one Muhammad Zubair, the respondent in this appeal brought a suit under section 77 of Act No. III of 1877, to have it declared that a letter, dated the 30th of September 1906, written by Musammat Khudija Bibi is genuine and should be registered. The letter is to be found in the judgment of the court below, page 8 of the Paper Book. In that letter Musammat Khudija Bibi writes as follows :—"I am disgusted with all that I got from my father and mother and whatever property you have transferred in my name. All those properties are yours, you are their owner. You may do with them as you like and profit by them. I give the property to you with my pleasure and have made you its owner." The lady died on the 4th of October 1906, just four days after the letter was written. Muhammad Zubair took the letter to the Sub-Registrar of Ghazipur and wanted it to be registered. The Sub-Registrar being of opinion that the property mentioned in the deed was not described in such a way as may be sufficient to identify the same, refused to register it. Muhammad Zubair went up in appeal to the District Registrar of Ghazipur. That officer too looking at the document found that the description of the property mentioned therein was extremely vague and insufficient for the purposes of identification and

<sup>\*</sup> First Appeal No. 349 of 1907, from a decree of Srish Chandra Basu, Subordinate Judge of Ghazipur, dated the 25th of November 1907.

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refused to order registration of the document. This order of refusal was passed on the 6th of June 1907. On the 4th of July 1907, Muhammad Zubair filed in the court of the Subordinate Judge of Ghazipur the suit out of which this appeal has arisen. One of the pleas set up by the defendant was that the letter in question does not contain a sufficient description of the property and therefore having regard to the provisions of section 21 of Act No. III of 1877, could not be registered. The lower court overruled this contention holding that while the letter certainly does not give any description of the property there is ample evidence on the record to show what property is meant. It says: "The letter, though it does not describe in detail the property, yet is not ambiguous. It conveys all the property possessed by Musammât Khudija Bibi. The Khewats filed show what are those properties. It is not as if the property cannot be identified. She describes it sufficiently for all purposes of identification, namely, the three sorts of properties, "(1) inherited from her father, (2) from her mother, and (3) transferred by her husband to her." The defendant appeals against the decree of the lower court. The first two grounds set out in the memorandum of appeal have not been argued before us. The ground which was argued, although not specifically set out in the memorandum of appeal, was that the letter does not contain a description of the property dealt with sufficient to identify the same and therefore is not a document, which could, having regard to the provisions of section 21 of Act No. III of 1877, be accepted for registration. It is true that in the course of the argument addressed to us the learned vakil for the respondent adopted as one of his arguments in the case that the letter does not show by itself that the property to which it refers is immovable property and sought to bring the document within the provisions of section 18, clause (f). But in our opinion this contention cannot be sustained. The word which is used in the translation for property is in the original "*ju'idad*" and our experience is that this word is used for immovable property and when used for movable has prefixed to it some word like *mankula* showing that it is not to be read in its original meaning. We have no doubt that the document is a non-testamentary document relating to immovable

property. The law requires that no such document shall be accepted for registration unless it contains a description of such property sufficient to identify the same. The learned vakil for the respondent contends that the description given in the letter is sufficient or at any rate can be made sufficient by reference to other documents. We have not to consider in this particular case what is intended by the words "sufficient to identify." Section 22 of Act No. III of 1877, as amended by Act No. XVII of 1899, provides that where it is, in the opinion of the Local Government, practicable to describe lands by a reference to Government map or survey, the Local Government may by rule require that such lands shall for the purposes of section 21 be so described. The Local Government of these provinces has issued a rule which does require that lands shall be described by giving in their case the name of the village, pargana, tahsil and the revenue district in which the parcel of the land is situated. This rule has the force of law—*vide* section 69. It was published in the Local Gazette of 1897 and can be found in that Gazette, *vide* part I, page 50, rule 116, or in the Registration Manual, part II, rule 117. None of the information required by this rule has been given in the present case. It appears to us that the Sub-Registrar and the District Registrar were, as the court also finds, right in refusing to register the document on the ground that the description of the property given in it was not sufficient to identify the same. The learned vakil for the respondent wished to bring to his aid certain *khewats* which are on the record and which he says contained information such as is required by rule 117. Those *khewats* were not filed along with the plaint, and though they are endorsed as "admitted against the defendants" there is nothing to show that they refer to the property to which the letter relates, the prayer of the plaint still remains that the letter and the letter only be registered. The Subordinate Judge in his decree only mentions the letter and says nothing about the *khewats*. We are satisfied that the document, which the respondent seeks to register did not and does not contain a description of the property sufficient to identify the same and that the provisions of rule 11 have not been complied with. It is not easy to understand how the court

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below holding this view regarding the document arrived at the conclusion that he can grant a decree in respondent's favour. The Civil Court could only do what the registrar could have done. We can find and have been referred to nothing in the law whereby his powers in this respect have been amplified. But it is contended that the provisions of section 22 are merely directory and that if the Legislature intended to shut out all documents to which it would apply, it would have added some words to show that a document faulty in this respect is null and void. In reply to this argument we have only to quote the words used in section 21. They are positive and imperative and do not admit of an inference that they are merely directory, nor is it difficult to understand why they should be as imperative as they are. The object of registering a document is to give notice to the world that such a document has been executed and is in force. Persons who may seek to acquire any property covered by such an instrument are entitled to have the instrument so clearly worded that they can, while searching the registers, come upon the deed quickly and have no doubt as to its contents. The object of the statute would be to a great extent nullified and innocent persons exposed to great hardship and loss if they could be treated as purely directory. We were referred to a large number of rulings, but they may broadly be divided into two classes. They were rulings dealing in effect with documents which ought not to have been registered but had been registered or with documents which were in dispute between the parties who were acquainted with the history and might reasonably have known what property was referred to. No case exactly in point was cited to us. There was nothing brought before us which would justify our overriding the clear provisions of the Act. We therefore allow this appeal, set aside the decree of the lower court and direct that a copy of this judgment be sent through the District Registrar to the Sub-Registrar concerned. The appellant will get his costs in all the courts.

*Appeal allowed.*