

APPELLATE CIVIL.

Before Mr. Justice Abdul Raooof and Mr. Justice Harrison.

MEHTAB SHAH (DEFENDANT) Appellant,

versus

ALI HAIDAR SHAH AND ANOTHER }
 (PLAINTIFFS) } Respondents.
 Mst. MEHR BIBI (DEFENDANT) }

Civil Appeal No. 1370 of 1921.

Punjab Courts Act, VI of 1918, section 41 (3)—Certificate—grounds for granting same.

A second appeal was presented to the High Court on the question of the validity under custom of a gift of land alleged to be ancestral. This was accompanied by a certificate granted by the District Judge on the ground that as a second appeal would be preferred on the question of the ancestral nature of the land it was advisable to empower the appellant to agitate every question which had arisen in the case.

Held, that the certificate did not comply with the requirements of section 41 (3) of the Punjab Courts Act, and must be ignored.

Second appeal from the decree of J. Addison, Esquire, District Judge, Rawalpindi, dated the 14th February 1921, reversing that of Lala Nand Lal, Munsif, 1st class, Rawalpindi, dated the 23rd October 1920, and granting the plaintiffs a declaration.

AZIZ AHMAD and ZAFARULLAH KHAN, for Appellant.

M. L. PURI, for Respondents.

The judgment of the Court was delivered by—
 HARRISON J.—The plaintiffs in this case are the collaterals in the third degree of one Lutaf Shah, and they pray for a declaration that a gift made by him to a very distant relative, named Mehtab Shah, shall not affect their reversionary rights: The suit was

dismissed by the trial Court, but the appeal to the District Judge was successful and a decree has been given as sought for.

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On second appeal, which is supported by a certificate, counsel contends, in the first place, that the plaintiffs have not proved the property in suit to be ancestral, and, in the second, that the gift is valid.

We find that the second and main question cannot be argued as we hold that the certificate given by the District Judge does not comply with the requirements of section 41 (3) of the Punjab Courts Act. The District Judge granted this certificate for the reason that the appellant was anyhow appealing on the question of the ancestral nature of the land, and, therefore, the Judge appeared to think it advisable that he should be given a certificate in order that he might agitate every question which had arisen in this case. It is not stated that the various requirements of the section have been fulfilled and, as the grounds on which the certificate is granted are wholly mistaken, we must ignore it.

[*The remainder of the judgment is not required for the purpose of this report—Ed.*]

N. F. E.

Appeal dismissed.