

APPELLATE CIVIL.

Before Bhide J.

1933
Dec. 18.

MOHAMMAD CHIRAGH AND ANOTHER
(PLAINTIFFS) Appellants
versus

FATTA AND OTHERS (DEFENDANTS) Respondents.

Civil Appeal No. 797 of 1933.

Registration—note by Sub-Registrar that document was duly presented—Official act—presumption of correctness—Custom—Alienation—necessity—act of good management.

Held, that there is a presumption in law that all official acts are regularly performed and when a document executed by a man for himself and on behalf of some others under a power-of-attorney was presented to the Sub-Registrar, and was accepted by him as duly presented, there is an initial presumption that the document was duly presented, and that the person presenting it was duly authorised to do so.

Chottey Lal v. Collector of Moradabad (1), and Kanhaya Lal v. National Bank of India, Delhi (2), followed.

Held also, that if a sale of immoveable property is found to be an act of good management, the reversioners cannot challenge it, even though no immediate necessity for the sale is established.

Second appeal from the decree of Sardar Teja Singh, Additional District Judge, Ferozepore, dated 4th February 1933, affirming that of Lala Tek Chand Sethi, Subordinate Judge, 2nd Class, Ferozepore, dated 9th June, 1932, dismissing the suit.

MOHSIN SHAH, for Appellants.

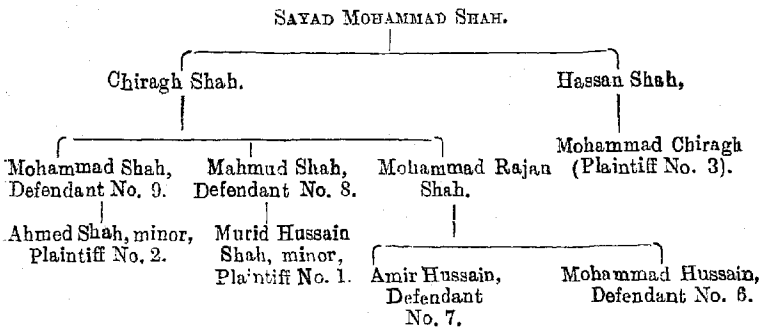
SHIV RAM, for Respondents.

(1) (1922) I. L. R. 44 All. 514, 518 (P. C.).

(2) (1923) I. L. R. 4 Lah. 284, 293-4 (P. C.)

BEHDE J.—The pedigree-table of the parties is as follows :—

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Mohammad Rajan Shah acting on behalf of himself and his two brothers, Mohammad Shah and Mahmud Shah, sold certain land to defendants Nos. 1 to 5 for Rs. 1,500 by a registered deed, dated the 6th July, 1927. Mohammad Rajan Shah died subsequently and the present suit was instituted by Mohammad Chiragh and the minor sons of Mohammad Shah and Mahmud Shah on the 16th January, 1931, to challenge the sale on the grounds (1) that Mohammad Rajan Shah had no authority to sell the shares of Mohammad Shah and Mahmud Shah in the land in dispute, and (2) that the sale should not bind them inasmuch as it was made without valid necessity and consideration. The trial Court dismissed the suit and the decision was upheld in appeal by the learned Additional District Judge. From this decision the plaintiffs have preferred this second appeal.

The first point urged by the learned counsel for the plaintiffs-appellants was that Mohammad Rajan Shah had no authority to sell the shares of Mohammad Shah and Mahmud Shah. The burden of proving that he had the authority to do so was on the defendants-vendees but it appears that no evidence was

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produced by them on this point. The learned Additional District Judge has, however, pointed out that the endorsement of the Sub-Registrar on the sale-deed goes to show that Mohammad Rajan Shah who appeared before him held a special power of attorney, dated 2nd July, 1927, from Mohammad Shah and Mahmud Shah. There is a presumption in law that all official acts are regularly performed, and when the document was accepted by the Sub-Registrar as duly presented there is an initial presumption that the document was duly presented and that the person presenting it was duly authorised to do so. [*cf. Chotey Lal v. The Collector of Muradabad* (1), *Kanhaya Lal v. The National Bank of India, Delhi* (2)]. No evidence was led to rebut the presumption and hence there is no force in this point.

As regards the second point, it is true that no immediate necessity for the sale was established, but the sale has been held to be an act of good management and as such binding on the plaintiffs. The material facts found were that Chiragh Shah, father of the vendors had migrated long ago to the Multan district. The land in dispute which is situated in the Ferozepore district was under mortgage since 1876 for Rs. 700. It was redeemed in 1922, but the vendees found it difficult to manage it from the Multan district and sold it for Rs. 1,500 in 1927. The vendors were *Patwaris* and presumably they would not have sold the land after redemption unless they had really found it necessary to do so. It was alleged that the vendors were men of bad character.

(1) (1922) I. L. R. 44 All. 514, 518 (P. C.).

(2) (1923) I. L. R. 4 Lah. 284, 293-4 (P. C.).

but the allegation was not proved. The major sons of the vendors have not come forward to contest the sale and the suit has been brought on behalf of two of their minor sons and a distant collateral Mohammad Chiragh, who seems to have hardly any prospect of inheriting the land. There is a recital in the sale-deed that the vendors intended to purchase other land with the proceeds of the sale and this shows that a representation of this kind was made to the vendees and it might well have been believed by them in good faith in the circumstances of the case. In view of all these facts I do not see adequate grounds for interference with the finding of the learned Additional District Judge that the sale was an act of good management—which was essentially a finding of fact.

I dismiss the appeal with costs.

P. S.

Appeal dismissed.

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