

APPELLATE CIVIL.

Before Mr. Justice Macpherson, Officiating Chief Justice, and Mr. Justice Lawford.

1875
June. 24

SHAIKH RYASUTULLA (PLAINTIFF) v. DOORGA CHURN PAL
(ONE OF THE DEFENDANTS.)*

Registrations Acts (XX of 1866), s. 18, cls. 1 & 2, s. 50; and (VIII of 1871), s. 18, cls. 1 & 2, s. 50—Priority of Registered over Unregistered Document—Compulsory and optional Registration.

A registered deed of sale, of which registration was compulsory, does not take effect against a prior unregistered mortgage bond in respect of the same land, the registration of which, it being for a sum under Rs. 100, was optional.

THIS was a suit to recover the amount of a bond with interest, and for a declaration that certain land, which was mortgaged to the plaintiff by the bond, was liable for the amount secured by the bond. The bond, which was unregistered, was for Rs. 95, and was dated the 9th of August 1870. There were different defences set up by different defendants. Doorga Churn Pal, one of the defendants, contended that as he had purchased a portion of the land in dispute *bonâ fide* for Rs. 300 by a registered kobala, dated the 18th of June 1872, the plaintiff could not claim that portion under an unregistered instrument. The Munsif, following the Full Bench decision in *Maharaja Maheswar Bax Sing Bahadur v. Bhikha Chowdhry* (1), made a decree in favor of the plaintiff. On appeal by Doorga Churn Pal, the Judge reversed the decision of the first Court so far as it affected the portion purchased by Doorga Churn Pal. He held that the case cited by the Munsif, being decided upon the provisions of Act XIX of 1843, was inapplicable; that the bond in suit came under s. 18, cls. 1 and 2 of Act XX of 1866, and therefore that the defendant's

* Special Appeal No. 1886 of 1874, against a decree of the Officiating Judge of Zilla Sylhet, dated the 22nd of May 1874, modifying a decree of the Munsif of Lushkurpore, dated the 11th February 1874.