

Before Mr. Justice Norman.

IN THE MATTER OF ACT XX. OF 1866, AND OF THE PETITION OF BRIDABAN CHANDRA SHAW AND NABADWIP CHANDRA SHAW.

Marc
19 & 32.

Registration—Act XX. of 1866—Duty of Registrar.

Under Act XX. of 1866, a Registrar has no power to refuse to register a deed, on the ground that the full consideration therein mentioned has not been paid. His duty is, when the parties appear in person before him, simply to ascertain whether the deed has been executed by the persons by whom it purports to have been executed.

THIS was an application, under the 84th section of the Registration Act, for an order directing the Registrar to register a deed of conveyance. The deed was made between, and executed by, Ramlochan Shaw and Hemchandra Shaw of the one part, and the petitioners of the other part, and by it two-thirds share, in a certain house and lands in Calcutta, were, for the consideration therein mentioned, conveyed to the petitioners absolutely, Nabadwip Chandra Shaw duly presented the deed for registration. The parties of the other part appeared under a summons, and objected to the deed being registered, on the ground that they had not received the full consideration. The Registrar recorded that he therefore refused registration. The petitioners, in their petition, further stated that they had "adduced their personal evidence, that the consideration-money had been paid, and were prepared to give further evidence, if required, to satisfy the Registrar."

Mr. Woodroffe for the petitioners.

Mr. Eglinton contra.

NORMAN, J.—(After stating the facts). The duty of the Registrar, when an instrument is presented at the proper Registration Office, by any person executing or claiming under the same, is clearly stated in the 36th section (1).

(1) He is to "enquire whether or not such document was executed by the person by whom it purports to have been executed, and in the case of any person appearing as a representative, assignee, or agent, to satisfy himself of the right of such person so to appear. If all the persons executing the document appear personally before the Registering Officer, and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, &c., the Registering Officer shall register the document as directed in section 68."

1868

IN THE MAT-
TER OF
BRINDABAN
CHANDRA
SHAW.

Thus if the parties to a deed appear in person before the Registrar, he has simply to ascertain whether the deed has been executed by the persons by whom it purports to have been executed. Mr. Eglinton referring to section 82, contended that the Registrar has some discretionary power to refuse registration. There is no doubt that such is the case as regards instruments with unattested interlineations as provided for by section 20, or if the description of the property to which the instrument relates appears to him insufficient to identify it as provided for by section 21. It is enough to say that section 36 gives no such direction. Its language is distinctly imperative, and leaves no option whatever to the Registrar. The greatest injustice might be done if this were otherwise. The Registrar has, it is true, power to summon witnesses; but he has no power to try a cause or give costs, nor has this Court power to give costs in an appeal. The Registrar has no legal training to enable him to deal judicially with the equities which may arise as between a party claiming to have a deed registered, and one who having executed the deed, either denies his own solemn admission therein contained or contends that he ought not to be bound by the deed till something is done by the opposite party. If the Registrar might refuse to register any instrument, the grantee claiming under it would find himself placed in a great difficulty, because the 40th section enacts that no instrument required by section 17 to be registered, shall be received in evidence in any civil proceeding in any Court, or shall be acted upon by any public servant, as defined in the Indian Penal Code, or shall affect any property comprised therein, unless it shall have been registered in accordance with the provisions of that Act. The case of *Raj-chandra Bandoo v. Rajendra Dassi* (1) is in accordance with the view I take.

There will be an order that the Registrar do forthwith register the instrument. No order as to costs.

Attorney for the petitioners: *Mr. Thomas,*

(1) Ind. Jur., 240.