is not in all cases indispensable to the truth and validity of a claim for dower, and this leads us to the *second* and *third* pleas in appeal.

With respect to the *second* plea, we see no reason why the statements recorded in Court by parties in a position to know the facts should not have a certain weight. The Principal Sudder Ameen has not relied upon them absolutely, but only as one and by no means the strongest of the grounds upon which his decision has been based.

The *third*, *sixth*, and *eighth* pleas may well be taken together. We are of opinion as to these that there is on plaintiff's part an amount of evidence, as set forth in the Principal Sudder Ameen's detailed judgment, and as read to us, which establishes sufficiently that the dower claimed was that agreed to and customary. It is, of course, difficult in such cases as this after 30 or 40 years for plaintiffs to produce such full and direct evidence as they otherwise might have done. But taking all the evidence on their side as a whole, and looking to the respectability of many of the witnesses, and to the consistency of the testimony as a whole, and, further, considering that defendant does not in any way establish his plea that the dower was 40,000 rupees and 40 gold mohurs, we see no reason why we should say that the Principal Sudder Ameen is wrong, and reverse his judgment. It may be true that the sum claimed and deposed to, as agreed upon and customary, is a very large sum: but the Mahomedan Law books, and the decided cases, and also the experience of the country, show that it is a fact that sums so apparently beyond the means of the parties are fixed as dower amongst Mahomedans from the lowest to the highest.

The *fourth* plea is not established, nor is it one very material either way.

We admit that the *fifth* plea has some weight, and it is the only one that has. This Court certainly did, before remand, pronounce an opinion unfavorable to the *bonâ fide* character of the petition of Syed Mahomed of the 26th September 1837. But, excluding it altogether from our consideration, we think there is sufficient evidence without it to warrant our not interfering with the decision of the Principal Sudder Ameen.

On the *seventh* plea, we notice that the *muzeranamah* or statement "not on oath before the Court" of respectable parties is not essential to plaintiff's proving his case, and, therefore, may be put out of it; but it is certainly not opposed to his claim.

The *ninth* plea may be correct as to the speculative character of the suit; and yet those who are legally plaintiff's, and can establish the original claim of dower, have a legal right to a verdict.

Upon these grounds we see no sufficient reason to interfere with the decision of the Principal Sudder Ameen, and we accordingly dismiss the appeal with costs.

The 10th January 1866.

Present:

The Hon'ble H. V. Bayley and Shumbhoonath Pundit, *Judges.*

Evidence—Civil Court not bound by Magistrate's opinion of a document.

Case No. 1970 of 1865.

Special Appeal from a decision passed by Mr. G. G. Balfour, Judge of Chittagong, dated the 20th April 1865, affirming a decision passed by the Moonsiff of Satkaneah, dated the 16th December 1863.

Nittyanund Surmah and others (Defendants), *Appellants,*

versus

Kashenath Nyalunker (Plaintiff), *Respondent.*

Baboo Chunder Madhub Ghose for Appellants.

Mr. R. E. Twidale for Respondent.

A Civil Court is not bound to adopt the view of a Magistrate as to the genuineness or otherwise of a document.

THE ground of special appeal in this case is, that the Magistrate (to whom the Moonsiff referred the *first* document now pronounced to be spurious) found it not to be so, and that, therefore, the Civil Court was bound so to regard it. In respect to the *second* document, the special appellant urges that no sufficient grounds have been given for its rejection.

We are not aware of any law or rule of legal practice which compels a Civil Court to adopt the view of a Deputy Magistrate as to the genuineness or otherwise of a document. The Judge has found, as a fact, on all the circumstances shown by the evidence, and on the appearance of the *second* document, that neither of the documents is trustworthy. With this finding of fact we cannot interfere in special appeal, and we, accordingly, dismiss this special appeal with costs.