"given in writing" are equivalent to "made in writing," and that any acknowledgment whatever, if in writing and signed by the mortgagee, is sufficient. I am fortified in this opinion by the ruling of the Calcutta High Court, in S. A. No. 118 of 1865, reported in 3 Calc. W. Rep. Civ. R. 3, 4, and the judgment of the Vice-Chancellor in *Batchelor* v. *Middleton* (*ubi suprà*). The decree of the Assistant Judge must, therefore, be reversed, and the case remanded for re-trial with reference to the foregoing observations.

GIBBS, J., concurred.

Decree reversed and suit remanded.

Special Appeal No. 332 *of* 1868.

1868.
Sept. 17.

BA'I GANGA', daughter of Lálá Kúvarji...*Appellant.*
DULLABH PARA'G .....*Respondent.*

Ejectment—Admission of Tenancy—Presumption of Perpetual Lease—Tenant from year to year—Reg. V. of 1827, *Sec.* 1.

Although a person is admitted to have been in possession as a tenant for more than thirty years, yet the presumption of law is that he is only a tenant from year to year, and such tenant may be ousted by the proprietor, unless here is evidence or strong counter-presumption of his right to hold on a perpetual lease.

Reg. V. of 1827, Sec. 1, does not apply to such cases.

THIS was a Special Appeal from the decision of George Ayerst, Acting Assistant Judge of the District of Súrat, in Appeal Suit No. 282 of 1867, confirming the decree of the Munsif of Balsád.

The plaintiff brought a suit to eject the defendant from a piece of land.

The defendant stated that he had been in possession for more than thirty years, and that there being no lease or agreement to show the nature of the original tenancy, he could not be ousted so long as he paid rent.

The Munsif gave a decree for the defendant, which was confirmed on appeal.

1868.

BA'I GANGA' v. DULLABH PARA'G.

The Special Appeal was heard before WARDEN and GIBBS, JJ.

Dhirájlál Mathuradás, for the special appellant:—The lower courts would seem to have applied the law of prescription to this case; but it is inapplicable, as the tenancy is admitted. In the absence of evidence on the part of the defendant that he held the land on a perpetual lease, a decree should have been given in favour of the plaintiff, the presumption of law, under these circumstances, being that the tenancy was from year to year.

Nánábhái Haridás, for the special respondent:—The question to be determined is, whether a person who had been in possession as a tenant for more than thirty years without any lease or agreement in writing could be ousted. If, as has been held, the law presumes perpetual tenancy in favour of a tenant who is in possession for ninety years, there is no reason why it should not do so in favour of one who has been in possession for the lesser period of thirty years. Where is the line to be drawn, and upon what principle?

Dhirájlál Mathuradás in reply.

PER CURIAM:—The Court considers that the Acting Assistant Judge was in error in throwing out the claim, on the ground that the defendant had occupied as tenant for more than thirty years, for Reg. V. of 1827, Sec. 1, by which he appears to have been guided, is not applicable to such cases. The presumption of law is that a tenant is a tenant from year to year, and, therefore, unless there is evidence or strong counter-presumption of a perpetual lease, the proprietor can oust. The decree of the Acting Assistant Judge is accordingly reversed, and the case remanded for re-trial with reference to the above exposition of the law.

Decree reversed and cause remanded.