

APPELLATE CIVIL.

Before Mr. Justice Fulton and Mr. Justice Crowe.

1900.
June 20.

GOPAL AMRIT (ORIGINAL PLAINTIFF), APPELLANT, v. ANNABHAT
(ORIGINAL DEFENDANT), RESPONDENT.*

Registration Act (III of 1877), Secs. 3, 28, 64 and 65—Registration—Registration of a document relating to property situate partly outside British India.

A document relating to immoveable property which is partly situate within British India and partly outside British India, can be registered, under Act III of 1877, in the district in which a portion of the property is situate.

SECOND appeal from the decision of J. B. Alcock, District Judge of Násik.

Plaintiff sued for an order directing the registration of a document alleged to have been executed by defendant.

The document related to immoveable property a portion of which was situate in British India and the rest in the Nizám's Territory.

The Court of first instance awarded the plaintiff's claim.

This decision was reversed, on appeal, by the District Judge. His judgment was as follows:—

"The Registration Act applies to property in British India. This appears from the preamble. Provision is made for the case of a document relating to property situate in more than one district, by section 64. Under that section the sub-registrar of the district in which the document is presented for registration has to notify the fact to the sub-registrars of the other districts. But there is not and cannot be any provision for notifying such registration in a district outside of British India. An exception is made in the case of wills. It appears to me to be quite clear that as the Act only applies to British India, documents relating to property outside British India cannot be registered under the Act.

"The lower Court thought that there can be no objection to the registration of the document 'for purposes which may require its enforcement in British India.' There is, however, no provision for partial registration in the Act."

Against this decision plaintiff preferred a second appeal to the High Court.

Robertson (with N. G. Chandavarkar) for appellant.

* Second Appeal, No. 32 of 1900.

Lang, Advocate General (with *D. A. Khare*) for respondent.

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FULTON, J.:—We think the District Judge was mistaken in holding that the document in question could not be registered in the Nasik District, because, although a portion of the property was situated in that district, another portion was situated in the territories of H. H. the Nizam. Section 28 in Part V of the Registration Act is clear: "Save as in this part otherwise provided, every document mentioned in section 17, clauses *a*, *b*, *c* and *d*, and section 18, clauses *a*, *b* and *c*, shall be presented for registration in the office of a sub-registrar within whose sub-district the whole or some portion of the property to which such document relates is situate." Part V contains no other provision touching the registration of such a document as the one under consideration.

The District Judge thought a difficulty arose from the requirements of section 64, but that section must be read along with section 65 and the two sections clearly refer to cases where the property is situated in more districts or sub-districts than one as defined in section 3 of the Act. They have no application where part of the property is situated outside British India. They do not affect the right of the party to have his document registered. They relate to the procedure to be adopted by the registering officer after registration. The mere fact that, owing to part of the property being situate outside British India, it is not possible for him to comply fully with the provisions of section 64, relating to immoveable property not wholly situate in his own sub-district, does not, in our opinion, relieve him from the necessity of granting registration when the requirements of the law which entitle the party to have his document registered have been complied with.

We reverse the decree of the District Judge and restore that of the Subordinate Judge, with costs on the defendant throughout.

Decree reversed.