

(1897) 12 CAL CK 0006

In the Calcutta High Court

Case No : Appeal from Appellate Decree No. 645 of 1896

Gupta Narain Das

APPELLANT

Vs

Bijoya Sundari Debya

RESPONDENT

Date of Decision : 01-12-1897

Acts Referred:

Citation : (1897) 12 CAL CK 0006

Final Decision : Dismissed

Judgement

1. The contention of the Appellant is that the document with reference to which the Plaintiff has secured a decree was inadmissible in evidence and was not a document on which the Court could at all act. It appears that there was a previous suit between these parties in which the Plaintiff sought to recover a certain jote of which he had been dispossessed by this Defendant. That case was compromised, the Defendant giving up a half share of the land which was claimed. By the same compromise he agreed to give up a half share of another jote of which, according to the recitals in the compromise, he had dispossessed the Plaintiff. The compromise thus arrived at was a settlement of all disputes between the parties and gave the Plaintiff an express right to recover the second jote--the one which is now in dispute by a suit if it was not restored according to the Defendant's undertaking. Of course, this part of the compromise could not be enforced in execution of the decree passed in the previous suit, as it was not a part of the subject-matter of the decree. Nevertheless under sec. 375, C. P. C., the compromise had to be recorded, and there is nothing that we can see to prevent the Court from giving effect to it in this suit. We do not know whether the document bears a stamp or not. At all events, it was admitted without any objection on the ground that it was not stamped. Substantially the contention before us is that it was inadmissible because it was not registered but on the face the document is not one which purports or operates to create, declare, assign, limit or extinguish any right, title or interest in immovable property. It was a mere undertaking by the Defendant, as part of the general compromise agreed upon that he will give back to the Plaintiff that which was the Plaintiff's own

property. He took advantage of the agreement so far as it was in his favour and we are unable to see why he should not be compelled to conform to it so far as it is against him. The Courts have, in our opinion, come to a right conclusion and we dismiss this appeal with costs. Appeal dismissed, with costs.