

(1890) 05 CAL CK 0008
In the Calcutta High Court

Koylashpoti Narain Singh

APPELLANT

Vs

Salimatul-Fatima alias Bibi Hossaini

RESPONDENT

Date of Decision : 14-05-1890

Acts Referred:

Citation : (1890) ILR (Cal) 904

Hon'ble Judges : Pigot, J;Gordon, J

Bench : Division Bench

Judgement

Pigot and Gordon, JJ.—Upon the question raised as to the proof of the execution of the power-of-attorney, it is clear, and is. indeed admitted, that the respondents' case rests alone upon the fact of registration. There is no proof unless that be proof. And as to the sufficiency of this, a note in the case of Kristo Nath Koondoo v. Brown ILR Cal 176 , a ruling by Trevelyan, J., is relied on, as showing that registration of such a document is enough without further proof of execution. It is relied on very properly in the judgment of the District Judge, and was referred to, but without any argument or attempt to explain it, by the learned Counsel for the respondents. It is unnecessary to say that a reported decision of the learned Judge on the Original Side after argument must be treated as an authority of importance. But we do not think that the note in question is one by which we should be guided. There is no report of either argument or judgment; as the note appears, it would be to the effect that mere registration of a document is in itself sufficient proof of its execution. We think that there must have been some misapprehension as to the grounds on which the document was admitted in evidence by the learned Judge. We think we should not treat this note as an authority for the proposition above mentioned, which we think could not be accepted. We must bold that in this case there is no proof that the lady ever executed the document under which it is sought to bind her. That being so, it is impossible to support the decision of the District Court, and the appeal must be allowed with costs.