
(1888) 06 AHC CK 0008
In the Allahabad High Court

Muhammad Israr-ul-lah Khan and Others	APPELLANT
Vs	
Wali-ul-lah Khan and Another	RESPONDENT

Date of Decision : 29-06-1888

Acts Referred:

Citation : (1888) ILR (All) 627

Hon'ble Judges : Tyrrell, J; John Edge, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Edge, C.J. and Tyrrell, J.—This is a pre-emption suit. The plaintiffs, who claim a right of pre-emption, had signed the sale-deed as witnesses. As to that part of the case their allegation in the plaint was that they had not signed the sale-deed, and that their signatures were forgeries. The Subordinate Judge and the District Judge found that the signatures of the plaintiffs to the sale-deed were their genuine signatures. The Subordinate Judge found that the plaintiffs knew to what the sale-deed related, and he dismissed the suit. The District Judge allowed the appeal on the finding that the plaintiffs had witnessed the deed in question under pressure. There was no such issue raised on the pleadings in the case, and no such issue was before the District Judge. The simple issue on this point was-- were those signatures the genuine signatures or not of the plaintiffs? The plaintiffs did not allege in their plaint that they had signed the sale-deed under pressure or that they did not know what the contents of the sale-deed were. The issue which the District Judge found in their favour was a very serious issue, and of that class of issues, which, in our opinion, the Privy Council has more than once pointed out, should not be raised by the Judge for the parties when they had not raised it themselves. In the Privy Council case referred to by the District Judge--Rajlakhi Debi v. Gokul Chandra Chowdhry BLR 3 PC 57: 12 AnWR 47: 13 Moo I. A. 209 the mere proof of the signature of a witness to the document was, we think properly, if we may say so, held to be no evidence that he knew what the contents of the document were. On the findings on the issue raised by the

parties by their pleadings, to which we have referred, the plaintiffs had no cause of action. The appeal is allowed, and the suit is dismissed with costs.