

(1917) 10 BOM CK 0012
In the Bombay High Court

Rai Bhaiya Dirgaj Deo Bahadur

APPELLANT

Vs

Beni Mahto

RESPONDENT

Date of Decision : 16-10-1917

Acts Referred:

Evidence Act, 1872 — Section 35

Citation : (1918) 20 BOMLR 712

Hon'ble Judges : Wrenbury, J; Parker, J; John Edge, J; Ameer Ali, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Parker, J.—In this case the question is as to the nature of the respondents' holding. It is admitted that the document under which their predecessor in title originally held, and which created the holding, is lost, and the only question that their Lordships have to decide is whether another document consisting of a register, as evidence of the contents, was or was not properly admitted. Now clearly this register is an official document, and therefore it is admissible in evidence u/s 35 of the Indian Evidence Act. It may be possible that in the case of such a document, if it could be shown that any particular part was in excess of the official duty by reason of which it came into existence, that part might not be admissible, but no attempt has been made to show this in the present case. The document reason to reverse or to vary that decision.

2. The appeal therefore should, in their Lordships' opinion, be dismissed. The respondents not having been admitted by both Courts below as proper evidence in the case, and their Lordships see no appeal, there is no question of costs. Their Lordships will humbly advise His Majesty accordingly.