

(1912) 03 BOM CK 0010
In the Bombay High Court
Case No : Second Appeal No. 584 of 1910

Shekh Adam Hasanali

APPELLANT

Vs

Chandrashankar Pranshankar

RESPONDENT

Date of Decision : 04-03-1912

Acts Referred:

Citation : (1912) 14 BOMLR 506

Hon'ble Judges : Narayanrao Chandavarkar, J;Batchelor, J

Bench : Division Bench

Judgement

Chandavarkar, J.—It is clear upon the terms of Ext. 67 that it cannot be regarded in law as a composition deed. All that appears from its recitals and terms is that the owner of the property transferred it to the trustees for the purpose of enabling those trustees to pay off his creditors. There is nothing whatever in the language of the deed to show that there was any composition, any settlement with the creditors that the debtor should pay less than he owed to them and that they agreed to accept that composition. The essential test of a composition deed is that there ought to be a compounding of debts due. Of that there is no trace whatever so far as the language of this document is concerned. It might be regarded as a conveyance or as a trust deed, 1. e., a trust made by the debtor for the purpose of enabling the trustee to pay off his creditors. From either point of view it was compulsorily registrable, and not having been registered, it could not be admitted in evidence.

2. On these grounds the decree must be reversed and the suit dismissed with costs throughout upon the respondents.