

(1869) 03 CAL CK 0040
In the Calcutta High Court

Winterscale

APPELLANT

Vs

Gopal Chandra Seal

RESPONDENT

Date of Decision : 10-03-1869

Acts Referred:

Citation : (1869) 03 CAL CK 0040

Judgement

Sir Barnes Peacock, Kt., C.J.—It appears to us that the deed in question demised the land, as well as the bungalow which was standing on it, and consequently that the deed was not admissible in evidence without registration. The plaintiffs sue upon the following cause of action : "For that by your deed under your seal, dated the tenth day of August 1865, you covenanted to pay monthly the sum of rupees one hundred and twenty for the use and hire of a steam engine," &c. The action is therefore distinctly brought upon the deed, hut as the defendant appears to have occupied the plaintiffs' property, there is no reason why he should go free from payment, if they bring their action in another form for the use and occupation of the steam engine and the premises. The deed will not be admissible in evidence in support of that action, but probably the plaintiffs will be able to prove their claim by proving the amount which the defendant paid for the premises on a prior occasion. The answer to the question put by the learned Judge will be, that the document was not admissible in evidence without registration u/s 13 of Act XVI of 1864. We merely allude to the other point, lest it should be considered that the Court intended to decide that the defendant was not liable to pay any thing, because the deed was not registered. There will be no costs in this reference.