

**(1909) 02 CAL CK 0013**  
**In the Calcutta High Court**

W.W. Broucke

APPELLANT

Vs

Rajah Shaheb Mohan Bikram Shah

RESPONDENT

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**Date of Decision :** 11-02-1909

**Acts Referred:**

**Citation :** (1909) 02 CAL CK 0013

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**Judgement**

Chitty, J.—This is a suit by the plaintiff, Mr. Broucke, u/s 77 of the Indian Registration Act, for a decree directing the registration of three pattahs of certain villages in Champaran alleged to have been executed in his favour by the defendant Rajah Shaheb Mohan Bikram Shah. The registration was, according to the plaintiff, to be effected in Calcutta, and the suit is accordingly brought in this Court. It is conceded that the documents which are in Nagri can be registered here provided they are accompanied by English translations. The defendant admitted in his written statement that the signatures appearing on the three instruments were his signatures; but he then pleaded that those signatures were fixed not by way of execution of the documents but merely for the purpose of signifying his approval to the contents thereof. With regard to the documents and their validity, he raised a number of pleas which may be shortly stated in the one contention, that he was not to be liable under these three pattahs until a loan of a lac of rupees had been made to him by one Mr. George Lane Anderson. The authorities are clear upon the question as to what may be put in issue in suit under this Section; indeed, the Act itself puts the matter beyond all doubt. The enquiry before the Registrar u/s 74 and the subsequent enquiry in Court are to be directed to two points only,—(a) whether the document has been executed and (b) whether certain requirements of the law for the time being have been complied with by the applicant or person presenting the document for registration. As to the latter point, I think, it refers only to such requirements as to presentation within due time, to the proper office, and in the manner generally prescribed by the Act. As to that, no question arises in the present case. The issue before me is, therefore, simply this—whether these documents were executed by the defendant? As I have said, the authorities are clear that, in a

suit of the present nature, the Courts cannot go beyond that question. I need only refer to the case of Raj Lackhi Ghosh v. Debendra Chundra Mojumdar 24 C. 668 : 1 C.W.N. 444, which agreed with the decision of the Madras High Court in the case of Balambal Ammal v. Arunochala Chetti 18 M. 255. The same view has been taken in the case of Kanhaya Lal v. Sardar Singh 29 A. 284 : 4 A.L.J. 171 : A.W.N. 171 : A.W.N. (1907) 46. On this question of factum of execution, the plaintiff has adduced evidence to show that these documents are signed in the margin of every page by the defendant himself. Most of these signatures in Exhs.--Kand Lare accompanied by the Rajah's seal. Ex.--M does not bear any seal on any page, it being explained that these, signatures were fixed by the Rajah in Mr. Anderson's office at a time when he had not the seal by him. Fixing of the seal is, of course, unnecessary for the valid execution of such documents: bat when it does appear, it is a strong evidence that the signing was not merely an expression of approval. The signatures on the first page of all the three documents are more than a mere writing of the defendant's name. The defendant has further entered a number of particulars as to the documents and has stated in his own handwriting that the pattahs are "executed" or granted," thereby completely disposing of his plea that he signed by way of approval only. It is incredible that a gentleman of his position and knowledge, who signed these formal documents in that way clearly indicating execution, really only wished, as he says, to signify his consent to their terms. Under the circumstances, and in the absence of any evidence from the defendant herself in support of that plea, there can only be one conclusion, namely, that he did execute these documents. As to their validity, I am not concerned in the present case. The defendant may have some reason,--possibly a good reason,--why he should not be bound by these documents; but the law clearly does not allow him to advance such reasons in a suit u/s 77. His Counsel have, therefore, very properly not pursued any further in this suit those questions, which he wished to raise. They have advised him to file a separate suit in which that matter can be fully dealt with. There will, therefore, be a decree for the plaintiff directing that these documents be registered in the offi.33 of the Registrar of Assurances, Calcutta, if they be duly presented for registration within 33 days after the passing of this decree. The defendant must pay the costs of this suit on scale No. 2, including reserved costs, and the costs of the application" for his own examination on commission. The documents will be in the usual way returned to the plaintiff for registration.