

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Mussamat Kameeroonissa Begum v. Mirza Syuffollah, from the High Court of Judicature at Fort William in Bengal; delivered July 12th, 1871.*

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Present :—

SIR JAMES W. COLVILLE.

SIR JOSEPH NAPIER.

LORD JUSTICE JAMES.

LORD JUSTICE MELLISH.

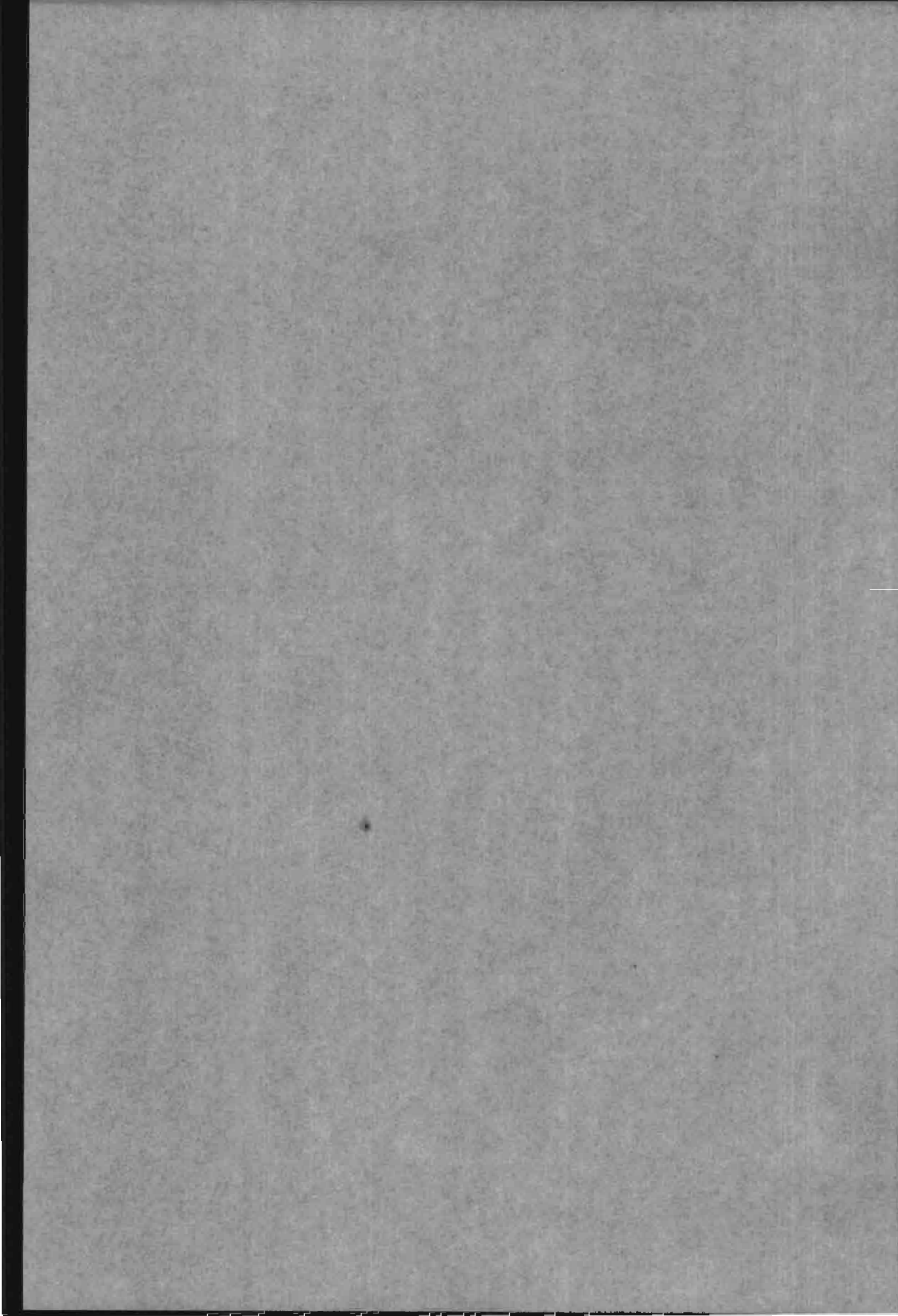
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SIR LAWRENCE PEEL.

THIS is an Appeal from a Judgment of the High Court which affirmed the Judgment of the Principal Sudder Ameen, setting aside a deed which on the face of it purports to be a deed of sale for Rs. 9000 of property, which was alleged, and without contradiction, to be worth Rs. 100,000. The alleged sale was by a Mahomedan lady, a Purdanashin, during a very severe and painful illness, of which she died within a few days afterwards. The Vendee was the niece of the lady, and the deed was prepared by the directions of the niece's husband. The Court below, upon hearing all the evidence, and upon looking at the nature of the transaction, the nature of the deed, and the value of the property, came to the conclusion that as a matter of business, treated as a sale, the deed under the circumstances could not stand. Then, when it came on appeal to the High Court, the ground upon which alone the case was pleaded and tried in the Court below, that is, that it was valid as a deed of sale, treating it as a matter of business, was wholly abandoned, and it was then suggested, as it has been suggested before us, that, although it was not good as a deed of pure sale, it would be good as a deed of bounty, the sale being colourable for the purpose of giving effect to a gift which otherwise it might be difficult to make under

the Mahomedan Law. The High Court, after having heard an elaborate and learned argument from the same Counsel that we have heard to-day, and having heard all the points suggested there, came to a conclusion in which their Lordships entirely concur, namely, that there is no evidence sufficient to satisfy the burden of proof which lies upon every person who endeavours to sustain a deed of this kind as a deed of gift from a person *in extremis* where the thing has assumed on the face of it a totally different character, and where, in the first instance, it is pleaded and endeavoured to be supported as a deed of such different character.

The High Court having come to the conclusion that there was not sufficient to satisfy them, their Lordships are of the same opinion, and, therefore, will humbly recommend Her Majesty to dismiss this Appeal with Costs.



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