

*Judgement of the Lords of the Judicial Committee  
on the appeal of Mussummat Anand Kuar and  
another v. Tansukh, from the High Court of  
Judicature for the North-Western Provinces of  
Bengal at Allahabad; delivered February  
22nd, 1889.*

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Present:

LORD HOBHOUSE.

LORD MACNAGHTEN.

SIR RICHARD COUCH.

[*Delivered by Lord Macnaghten.*]

THEIR Lordships are of opinion that there is no foundation for this appeal.

The appeal was based upon an allegation that the Appellants, or the person from whom they claim to have derived title, had been in possession under a deed of gift made by Rup Singh. In order to make out their case it was incumbent on the Appellants to prove the execution of that deed. Mr. Arathoon desired to proceed on the assumption that the matter had never been in contest. But that is not the case. The Respondent referred to the deed in his plaint, and gave what seems to their Lordships to be distinct notice that its execution was not admitted. In the course of the suit the execution of the deed was put in issue in the ordinary way. Two courts have tried the question, and both have held that the execution was not proved.

Under these circumstances their Lordships will humbly recommend to Her Majesty that the judgement appealed from should be affirmed and this appeal dismissed, but there will be no costs, as there is no appearance on the part of the Respondent.

▲ 57653. 125.—3/89. Wt. 2331. E. & S.

