

Privy Council Appeal No. 18 of 1918.
Allahabad Appeal No. 16 of 1916.

**Nawab Bahadur Muhammad Rustam Ali Khan, since deceased, and
another** - - - - - *Appellants*

v.

Nawab Maulvi Mushtaq Husain, since deceased, and others - - *Respondents*

FROM

**THE HIGH COURT OF JUDICATURE FOR THE NORTH-WESTERN
PROVINCES, ALLAHABAD.**

**JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 18TH JUNE, 1920**

Present at the Hearing :

LORD BUCKMASTER.

LORD DUNEDIN.

SIR JOHN EDGE.

MR. AMEER ALL.

[*Delivered by* LORD BUCKMASTER.]

On the 25th August, 1908, Nawab Azmat Ali Khan executed a wakfnama, or deed of charitable trust, dedicating specific property, of the stated value of Rs. 20,000, for religious purposes. The said Nawab Azmat Ali Khan resided at Karnal, in the Punjab, and early in August of 1908 the Deputy Commissioner of Karnal intimated that he thought it expedient to place the Nawab and his property under the Court of Wards. The Nawab thereupon moved—it is alleged he was taken by his servants, but this is no longer material—to the District of Muzaffarnagar, beyond the jurisdiction of the Deputy Commissioner of Karnal. But the Deputy Commissioner proceeded to act under the Court of Wards Act, and in purported pursuance of the powers thereby conferred he issued an injunction on the 30th August, 1908, restraining the Nawab or any authorised agent from executing any deed of alienation until the further order of the Court. Notwithstanding this direction the wakfnama was, on the 1st September, 1908, registered before the Sub-Registrar of Muzaffarnagar. On the

9th November, 1908, the said Nawab executed a further document purporting to appoint trustees of the charity to which his property had been dedicated under the deed of the 25th August.

The Nawab died on the 26th December, 1908, and the appellants, who were his step-brothers, claimed, in competition with the trustees for the charity and his widows, to inherit the estate and applied for mutation of names, which was ordered in their favour on the 11th May, 1909, the Collector stating that the parties claiming under the deed of gift, and the widows, who claimed under a deed of sale, could sue in the civil Courts.

On the 8th July, 1912, the respondents, who were the trustees, accordingly instituted the proceedings out of which this appeal has arisen, alleging that the deceased had duly dedicated his property to the charity and claiming that they were the parties named to execute the trust.

This claim gave rise to a series of controversies with which it is unnecessary for their Lordships to deal, for, apart from three questions of law, the other disputes depended upon the determination of questions of fact which have been decided adversely to the defendants in both the Courts. The Subordinate Judge delivered judgment in favour of the plaintiffs (the respondents) and the learned Judges of the High Court affirmed his judgment. From the judgment of the High Court this appeal has been brought.

The three questions of law which alone arise for present determination are these :—

Was the action of the Deputy Commissioner of Karnal sufficient to prevent registration ?

Was the Sub-Registrar disqualified from registering the deed by reason of his possessing an interest in the property ?
and

Did the "trusteenamah" (the document of the 9th November, 1908) require registration under the Registration Act of 1877 ?

There are several weighty objections urged against the appellants upon the first point. First, it is argued that the Deputy Commissioner had no power to issue any injunction under Sections 11 and 12 of the Punjab Court of Wards Act, 1903, and secondly, that, even if he had such power, it must have been limited to persons and property within his jurisdiction. It is unnecessary to decide the first of these arguments, as their Lordships are clearly of opinion that, even assuming his authority would have extended to making such an order had the property been within his jurisdiction, the fact that at the time when the order was made both the Nawab and the property were outside that area deprived the order which he issued of any authority.

The next point depends upon the allegation that the Sub-Registrar was interested in the property registered because he was a trustee of Aligarh College, which was one of the objects entitled to the benefit of the trust. There is no allegation made against the good faith of the Sub-Registrar. It is admitted that