

*Privy Council Appeal No. 5 of 1916.*

*Bengal Appeal No. 4 of 1913.*

Syeda Amatul Fatema Bibi, since deceased (now represented by  
Syed Abdul Hafiz and others) - - - - - *Appellants*

*v.*

Dewan Abdul Alim Saheb and another - - - - - *Respondents*

FROM

THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

---

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE 20TH JANUARY, 1920.

---

*Present at the Hearing :*

VISCOUNT CAVE.

LORD MOULTON.

SIR JOHN EDGE.

MR. AMEER ALI.

[*Delivered by* VISCOUNT CAVE.]

---

Their Lordships do not think it necessary to trouble Counsel for the respondents in this case.

This is an appeal against the judgment of the High Court of Bengal affirming a judgment of the Second Subordinate Judge of Mymensingh dismissing the plaintiff's suit. The plaintiff claimed as heiress of Izzatanessa Bibi and sought to set aside a *waqfnama* executed by her, being a dedication to charitable and religious purposes of certain property, partly derived by Izzatanessa Bibi from her late son and partly being property of her own. The grounds on which the plaintiff sought to set aside the deed were: first, fraud and undue influence on the part of the defendants, who are respondents; secondly, that the dedicator did not understand the document; and, thirdly, that the document was bad according to Mohammedan law.

The issues of fraud and undue influence and failure to understand the documents were issues of fact, and the Subordinate Judge, placing the burden of proof on the right shoulders, determined those issues in favour of the defendants. His decision was affirmed by the High Court, full and sufficient reasons being given. There were therefore concurrent findings in favour of the respondents on the issues of fact, and it is impossible for the appellants to displace those findings.

With regard to the suggestion that the document was bad according to Mohammedan law, it is sufficient to say that it has not been made out to their Lordships' satisfaction that there is any legal objection to the document. There was a substantial dedication of property to charitable and religious purposes, and no legal objection to the dedication has been established.

Their Lordships will therefore humbly advise His Majesty that this appeal should be dismissed, and that the appellants, the legal representatives of the plaintiff, should pay the costs of the appeal.

---



In the Privy Council.

---

SYEDA AMATUL FATEMA BIBI, SINCE  
DECEASED (NOW REPRESENTED BY  
SYED ABDUL HAFIZ AND OTHERS)

v.

DEWAN ABDUL ALIM SAHEB AND ANOTHER

---

DELIVERED BY VISCOUNT CAVE.

Printed by Harrison & Sons, St. Martin's Lane, W.C.

1920.