

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Mohomed Altaf Ali Khan v. Ahmed Buksh  
and others, from the High Court of Judi-  
cature, North Western Provinces, Allahabad;  
delivered 11th January 1876.*

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Present :

SIR JAMES W. COLVILLE.

SIR BARNES PEACOCK.

SIR MONTAGUE E. SMITH.

SIR ROBERT P. COLLIER.

THE point in this case is a very short one. The Plaintiffs claimed under a will of Mussumat Bunnoo Jan, who is admitted on both sides to have been the owner of the property in question, and to have had power to dispose of it by will. The Defendant's claim was simply that of possession.

It is admitted that by the Mahomedan law no writing is required to make a will valid, and no particular form even of verbal declaration is necessary as long as the intention of the testator is sufficiently ascertained. In the first place the Plaintiffs put in a certain power of attorney executed by the testatrix to one Kishoon Lall, to make what is called a Wajib-ul-urz, and this document is to this effect: that a new settlement having been made of the property this lady made her appearance in respect of one Mouzah Ismael-pore, and she directed a Wajib-ul-urz to be made in respect of that Mouzah. But then she goes on to say the Wajib-ul-urz is to contain an alienatory clause to the effect: "After my  
" demise Ahmed Buksh shall be the proprietor

“ of one moiety of my property and Mussumat  
“ Nujmoonissa, my adopted daughter, the  
“ proprietress of the other moiety.” Now it  
was contended that although these words of  
demise in themselves extended to the whole of  
the property of the testatrix, still the scope of  
this document must be limited to Mouzah  
Ismaelpore, to which in the beginning it  
particularly refers, and if this document stood  
alone there might possibly have been some  
question on this subject. But there was also  
verbal evidence to the effect that the testa-  
trix did express an intention that the whole  
of her property should be devised by will to the  
Plaintiffs, and as far as their Lordships under-  
stand the judgment of the Judge of the Sub-  
ordinate Court, that Judge appears to have  
believed the evidence, because he came to the  
conclusion that it was the intention of the lady  
to give the whole of her property, though he  
thinks she has not carried that intention into  
effect. Accordingly his judgment was that her  
testamentary disposition only took effect with  
respect to Mouzah Ismaelpore. That decision  
was reversed by the High Court, on the ground  
that it appeared from the evidence in the case  
generally, consisting partly of this document  
and partly of verbal evidence which seems to  
have been credible, that the lady intended to  
devise the whole of her property to the  
Plaintiffs.

Their Lordships are of opinion that the High  
Court was right in that conclusion, and they  
will therefore humbly advise Her Majesty to  
confirm the judgment of the High Court, and  
to dismiss the Appeal with costs.