

ALLAHABAD HIGH COURT

Allahabad High Court

Vs

Sampat Kumar Singh

(Mukerji, J.)

16.12.1932

JUDGMENT

Mukerji, Ag. C.J.

1. A question as to the sufficiency of security has been raised by the respondent under the following circumstances. The last date on which the security was to be furnished for_ an appeal to be presented before his Majesty in Council was 2nd December 1932. The appellant deposited with this Court Government promissory notes of the face-value of Rs. 4,000 on 1st December 1932, but the notes were not endorsed in favour of the Registrar. The endorsement was made on 3rd December, that is, one day after the expiry of 2nd December. The Imperial Bank's report shows that the market value of the securities is over Rs. 4,000; and the sole question remains whether the endorsement was essential for the purpose of security. There can be no doubt that the documents were furnished to be treated as security. If the transaction had been between private parties, the person to whom the documents were handed over would be entitled to obtain a decree for specific performance of the contract, of security being furnished, by the documents being properly endorsed in his favour. In the circumstances, there should be no difficulty in our opinion in accepting the notes as security furnished within the meaning of Order 45, Rule 7, Civil P.C. There is another point in favour of the appellant, and it is this that the rules of the High Court do not say that the Government securities should be endorsed in favour of the Registrar before they are handed over to him. The proper way of furnishing security is no doubt by endorsing them in favour of the Registrar, but our rules in Chap. 17 are silent on the point. The rules probably will have to be amended, but so long as they stand, they ought to be treated as sufficiently complied with if the letter of the law has been obeyed. In the circumstances we declare the security to be sufficient. The appeal is now admitted.

