

*Judgement of the Lords of the Judicial Committee
of the Privy Council on the Appeal of Rae
Sarabjit Singh v. Chapman from the Court of
the Judicial Commissioner of Oudh ; delivered
February 10th, 1886.*

Present :

LORD BLACKBURN.

LORD MONKS WELL.

LORD HOBHOUSE.

SIR RICHARD COUCH.

THEIR Lordships think that the decision of the Court below, which has been appealed against, was the right decision, but they do not agree exactly with the reasons given below.

Their Lordships have first to consider what point is raised by this case. The talookdar who owned the property in question became a lunatic, and an application was duly made for an inquiry into the state of his health under the 3rd section of Act XXXV. of 1858. That application was made by the officer of the district where this talook was situated, and the Civil Court to which the application was made, having caused notice to be given, did enter into an inquiry, and the result was that the talookdar was adjudged to be a lunatic. Thereupon the 9th section of Act XXXV. of 1858 applied, which provides that:—"When a person has been
" adjudged to be of unsound mind and in-
" capable of managing his affairs, if the estate
" of such person or any part thereof consist of
" property which by the law in force in any
" Presidency subjects the proprietor, if dis-
" qualified, to the superintendence of the Court
" of Wards, the Court of Wards shall be

▲ 20799. 125.—2/86. Wt. 2708. E. & S.

“ authorised to take charge of the same.” At the time Act XXXV. of 1858 was passed, Oudh was not part of the British dominions, but it has become so since, and their Lordships take it that the Court of Wards may be considered as having the same jurisdiction and all the powers that the Court of Wards elsewhere would have had. Therefore, under section 9, the Court of Wards was authorised “ to take charge of the same.” It seems to have been rather hastily concluded by the Judge below that the Court of Wards being authorised by the Legislature “ to take charge of the same,” required some further order from the Civil Court which adjudged the talookdar to be a lunatic to justify them in acting. Their Lordships think there is no ground for saying that, though section 9 goes on to provide:—“ In all “ other cases, except as otherwise herein-after “ provided, the Civil Court shall appoint a “ manager of the estate.”

It appears that the Civil Court, when they declared the talookdar to be a lunatic and so authorised the Court of Wards in Oudh to manage his property, did contemporaneously make an order appointing as the manager of the property the same person who acts as the manager under the Court of Wards. In the 14th section of the Act there is a provision that—“ Every manager of the estate of a lunatic appointed as aforesaid,” that is a manager appointed, not the Court of Wards, “ may exercise “ the same powers in the management of the “ estate as might have been exercised by the proprietor if not a lunatic, and may collect and “ pay all just claims, debts, and liabilities due to “ or by the estate of the lunatic; but no such “ manager shall have power to sell or mortgage “ the estate or any part thereof, or to grant a lease “ of any immoveable property for any period

“ exceeding five years.” Their Lordships suppose that the object of this order probably was that the Court thought *ex majore cautela* “ if there “ is any ambiguity about it we will take care “ that the Court of Wards has double power, “ and the manager shall act both under this “ Court and the Court of Wards.” It may not have been judicious, but that is the utmost object the Court could have had, and if it was wrong it will not be a bit the worse.

Such being the case, the Court of Wards did enter into possession of the estate and the management of it. The lunatic continued to live till 1874, when a lease was granted, the details of which need not be further stated than to say that it was a lease for 25 years with various terms and provisions in it. It professes to be a lease of certain villages belonging to the Bhadri estate under the Court of Wards which was granted to Captain F. C. Chapman, with the sanction of the Chief Commissioner of Oudh, conveyed in a letter of the 2nd April 1874 to the Subordinate Commissioner. Their Lordships pause to ask, what objection is there to this lease? No attempt is made to show that it was a lease improper in its terms, or that there was anything that amounted to an imposition, or that it was obtained by fraud or obtained improperly; but the one point relied upon against the lease is that it could not be granted for more than five years, and that objection, whatever might be its importance if the lease had been granted by one acting only under the authority of an appointment as manager by the Civil Court, does not seem to apply to a lease granted by the Court of Wards. That is the objection on which it is sought to set the lease aside.

The Judge of first instance entered into a great many questions which their Lordships do not pretend to follow; but there are a great

many allegations to show that even if the lease was originally void if granted for more than five years, it had been made good by subsequent acts after the lunatic was dead, and the present Appellant (the Plaintiff in the suit) had come into enjoyment of the estate. Their Lordships do not propose to enter into those questions at all, because they do not arise unless it can be shown that the objection that the lease exceeded a term of five years applies, and it certainly seems to their Lordships that it does not. The Judicial Commissioner on appeal arrived at the same result, that the lease was good, by a different process of reasoning, for he held that there were various things, by estoppel and otherwise, which prevented the Plaintiff from setting aside an invalid lease. Their Lordships would require a good deal more thought and consideration than has yet been given to the case before they pronounced an opinion upon such a point as that; but if it be correct to say, as their Lordships are decidedly of opinion that it is, that the Court of Wards could grant such a lease as this, and that it was not impeachable merely because it exceeded five years in length, no other objection being made, this lease is good and nothing further arises upon it. The lease was not void and could not be set aside, and consequently it stands. If there were other objections than this they have not been raised. Their Lordships do not suppose there are any, and they therefore think that the Judgement appealed from should be affirmed, although not for the same reasons by any means that were given below.

Their Lordships will therefore humbly advise Her Majesty that the Judgement appealed from should be affirmed and this Appeal dismissed with costs.