

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Appeal of  
Manohar Lal v. Jadunath Singh and others,  
from the Court of the Judicial Commissioner  
of Oudh; delivered the 3rd May 1906.*

Present :

LORD MACNAGHTEN.

SIR ANDREW SCOBLE.

SIR ARTHUR WILSON.

SIR ALFRED WILLS.

[*Delivered by Lord Macnaghten.*]

THE Code of Civil Procedure (Section 462) provides that :—“ No next friend or guardian for “ the suit shall, without the leave of the Court, “ enter into any agreement or compromise on “ behalf of a minor with reference to the suit “ in which he acts as next friend or guardian.” It was argued on behalf of the Appellant that the exigencies of that provision had been complied with in this case, inasmuch as it appeared that the minor (the first Respondent), who was a party to the compromises in question, was described in the title of the suit as a minor suing “ under the guardianship of his mother,” and the terms of the compromises were, of course, before the Court. In the opinion of their Lordships that is not sufficient. There ought to be evidence that the attention of the Court was directly called to the fact that a minor was a party to the compromises, and it ought to be shown, by an order on Petition, or in some way not open to doubt, that the leave of the Court was obtained. This was the principal question argued before their Lordships, and on it the Appellant fails.

The other question had reference to the terms of the Decree pronounced by the Court of the Judicial Commissioner on the minor's Appeal to that Court. It appears to their Lordships that the terms of that Decree are far too wide. The Decree orders that the compromises and decrees in the foreclosure suit (which were in question in this suit) be set aside "in their entirety," and goes on to declare that the result would be that those suits would "have to be decided afresh." Their Lordships think (and indeed the learned Counsel on both sides agree) that it will be quite sufficient if there is a declaration that the compromises and decrees are not binding upon the minor, and that he is remitted to his original rights.

Their Lordships will therefore humbly advise His Majesty that the Decree in the minor's Appeal to the Court of the Judicial Commissioner should be varied in this respect, but otherwise affirmed, and that the Decree in the present Appellant's Appeal to that Court should be affirmed. With regard to the costs of the Appeal, their Lordships think that the Appellant must bear them.

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