

Privy Council Appeal No. 66 of 1918.

Sakinabai - - - - - *Appellant*

v.

Shirinibai and others - - - - - *Respondents*

FROM

THE HIGH COURT OF JUDICATURE AT BOMBAY.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL UPON APPLICATION FOR LEAVE
TO WITHDRAW THE APPEAL ON TERMS DELIVERED THE
21ST NOVEMBER, 1919.

Present at the Hearing :

LORD SHAW.

LORD PHILLIMORE.

SIR JOHN EDGE.

MR. AMEER ALI.

SIR LAWRENCE JENKINS.

[*Delivered by* LORD SHAW.]

Applications to allow an appeal to be withdrawn on terms when there are parties concerned who are not *sui juris* are not granted without grave consideration. In the present case Mr. Kenworthy Brown, as Counsel for the minor concerned, having considered the whole proceedings, both in their legal bearings and with a full regard to the interests of the minor and his estate, has assured their Lordships that he is of opinion that the compromise is for the benefit of the minor. The case is further strengthened in that direction by a certificate of Mr. J. B. Kanga and Mr. V. F. Taraporewala, the Counsel for the minor in the Courts below, that the compromise which is proposed is for his benefit.

If there were an appeal pending before the High Court this certificate would have been presented to the Court below, if advantage had been taken of Rule 7 of Order 32 of the Code which prescribes that :—

“No next friend or guardian for the suit shall, without the leave of the Court expressly recorded in the proceedings, 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.”

In these circumstances the Board finds itself in possession of what, according to ordinary practice, would have been satisfactory to the Court below, whose leave to enter into a compromise would have been asked. It has the further assurance of learned Counsel at its own Bar: and upon the whole their Lordships are of opinion that this compromise is for the benefit of the minor and one that they should sanction. In terms of the compromise, accordingly, their Lordships will advise His Majesty that leave should be granted to withdraw the appeal.

In the Privy Council.

SAKINABAI

vs.

SHIRINIBAI AND OTHERS.

DELIVERED BY LORD SHAW.

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