

Nirvanaya Vs. Nirvanaya

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Court : Mumbai

Decided On : Feb-24-1885

Reported in : (1885)ILR9Bom365

Judge : Charles Sargent, C.J. and ;Nanabhai Haridas, J.

Appellant : Nirvanaya

Respondent : Nirvanaya

Judgement :

Charles Sargent, C.J.

1. In the present case the plaintiff disputes the validity of a compromise, dated the 26th May, 1863, entered into in his behalf, when a minor, by his natural further, on the ground that his father had no authority to make it, and, further, that there was no necessity for it. It appears that the compromise arose out of the rival claims made on behalf of the plaintiff and the fourth defendant by their respective fathers to be the heir of one Chanmalaya Svami, a virakt, or religious celebate. Both the Courts below have found that the compromise, having for its object to put an end to litigation, was, under the circumstances, for the benefit of the plaintiff; but the District Judge held that, as the plaintiff had been adopted by Chanmalaya, his natural father, who had not obtained certificate of guardianship, had no authority to enter into the agreement of compromise; and he added that the policy of Hindus was opposed to a divided math. The fourth defendant now appeals, and no cross

objection has been filed.

2. As to the last observation of the District Judge, it is sufficient to say that it is not the object of the present suit to impeach the compromise as opposed to the usage and custom of maths in general, or this math in particular. As to the authority of the father to enter into the compromise, we think that whoever might be the guardian of a minor who has been adopted by a religious celebrate, in matters relating to the math, the natural father would be his proper guardian to assert his rights to be such adopted heir as against rival claimants.

3. We must, therefore, reverse the decree of the District Judge, and restore that of the Subordinate Judge, with costs on plaintiff throughout.

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