

In Re: Maruti Bapuji Sonar

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Court : Mumbai

Decided On : May-10-1922

Reported in : (1922)24BOMLR707

Judge : Marten and Crump, JJ.

Appeal No. : Criminal Reference No. 25 of 1922

Appellant : In Re: Maruti Bapuji Sonar

Judgement :

Marten, J.

1. This is a somewhat curious case. A boy found some property, and very properly handed it over to the Police for enquiries to be made. The Magistrate thereupon under the Bombay District Police Act IV of 1890 issued a proclamation for the true owner. No such owner has come forward, and eventually the Magistrate sold the property, and has made an order vesting the sale proceeds of the property in Government.

2. It does not seem at first sight clear why the Government should get the property and why the boy who found the property and who prima facie is entitled to it in the absence of the true owner, should be deprived of it.

3. On investigation we find that this very point has been decided in this High Court by Mr. Justice Russell and Mr. Justice Chandavarkar in 1911 where almost precisely a similar case arose from Ahmedabad. There a similar course had been taken by the Magistrate, but that decision was set aside by the High Court, and the property was ordered to be restored to the finder. Moreover the papers afterwards went before Government and were subsequently printed and circulated for general information amongst the Magistrates and other judicial officers in the mofussil.

4. That precedent we propose to follow in the present case. When this matter came before this High Court originally there was no such reference by the District Magistrate as we have now got. So now, as regards mere procedure, we are in the same position as in the Ahmedabad case.

5. Accordingly the order made by the learned Magistrate will be set aside, and the property or rather the sale proceeds will be ordered to be restored to the original finder.

6. I may add that I doubt whether the learned Magistrate had any jurisdiction to sell these goods without the consent of the finder; but our order can only deal with the property now before us viz., the proceeds of sale.

Crump, J.

7. I agree.

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