

**Narain Singh Vs. Chiranji Lal**

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**Court :** Allahabad

**Decided On :** Mar-18-1924

**Reported in :** AIR1924All730; 79Ind.Cas.945

**Judge :** Daniels and; Dalal, JJ.

**Appellant :** Narain Singh

**Respondent :** Chiranji Lal

**Judgement :**

1. This is an appeal by the defendant against a decree for the amount of a bond executed by him in favour of the plaintiff on 22nd November 1919. The bond was executed in lieu of a pro-note previously executed by him on 14th December 1916. One of the defences to the suit was that the defendant was a minor on the date of the execution of the pro-note. The Court below has held that this defence fails as the defendant has not established the fact of his being a minor on that date.

2. The appellant contends that the burden of proving that the defendant was not a minor lay on the plaintiff and has cited two cases of this Court of the years 1909 and 1912 respectively in which that view was taken vide *Gaya Din v. Musammatt Dubari* 2 Ind. Cas. 839 : 6 A.L.J. 693, and *Kanhaya Lal v. Girdhari Lal* 13 Ind. Cas. 956 : 9 A.L.J. 103 The matter appears to us to be concluded against the appellant by the judgment of the Privy Council in *Jaganath Preshad, (Raja of Deo) v. Abdullah* 45 Ind. Cas. 7700 : 45 C. 909 : 16 A.L.J. 576 : 5 P.L.W. 83 : (1918)

M.W.N. 406 : 22 C.W.N. 891 : 8 L.W. 163 : 24 M.L.J. 62 : 28 C.L.J. 192 : 20 Bom. L.R. 851 : M.L.T. 46 : 45 I.A. 97 (P.C.). In that case the plaintiff sued on a conveyance executed by Musammatt Rajeshwari Kuar. One of the main defences to the suit was that Musammatt Rajeshwari Kuar was a minor on the date of execution. The High Court at Calcutta laid the burden of proving this on her and holding that she had failed to establish it decreed the suit. With reference to this their Lordships say:

Their Lordships agree with the High Court. The onus to prove minority is on the defendant who asserts it.

3. They remark in passing that the evidence tendered by the plaintiff is not open to any obvious objection but they do not decide the case on the plaintiff's evidence. They conclude by saying:

It is enough to say that the matter being left in doubt the defendant fails to prove his assertion.

4. The appellant argues further that the finding against him on this issue does not dispose of the case because part of the consideration for the pro-note of 1916 consisted of advances made while he was a minor. He suggests that we should now remit an issue as to what part of the consideration was so received and dismiss the suit with regard to it. 'We are unable to agree with this view. It is settled law that a contract made by a minor is void and unenforceable against him but we know of no law which lays down that money received during minority cannot form the consideration for a contract made by a person of full age and competent to contract. The definition of 'consideration' in Section 2(d) of the Contract Act includes services already rendered to the promisor. The appellant urges that by decreeing this claim we shall be defeating the provisions of Section 11 of the Contract Act with reference to minors. Nothing of the kind is true. If a minor accepts money except for necessaries he cannot be compelled to repay it and any contract to do so made by him as a minor is void against him, but if when of full age he takes it upon himself to repay there is no reason either in law or equity why his agreement should be deemed unlawful. Cases can be cited on both sides of the question but we prefer to decide the issue on the broad question of

principle.

5. We accordingly dismiss the appeal with costs including in this Court fees on the higher scale.

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