

Aman Singh and Another Vs Narain Singh and Others

Court: Allahabad High Court

Date of Decision: Aug. 4, 1897

Citation: (1898) ILR (All) 98

Hon'ble Judges: John Edge, C.J; Banerji, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

John Edge, C.J. and Banerji, J.

This suit was brought to set aside a decree made on a compromise. The plaintiffs here were minors at the

time of the previous suit and were lawfully represented in that suit by their guardian. The guardian was an assenting party on their behalf to the

compromise and to the making of the decree, and it is found in this suit that the compromise was not prejudicial to the interests of the minors; but

the Court had not, before the compromise was made, given leave for its being made. Under those circumstances it is contended on behalf of the

plaintiffs here that they are entitled to a decree setting aside the decree which was made on the compromise, and reliance is placed upon the

judgment of this Court in the case of Ealavati v. Chedi Lal ILR 17 All. 531. It is said, as appears to be true, that the Court, although it sanctioned

the compromise after it had been entered into, had not given leave to the guardian to make the compromise before it was made, and that

consequently there was no good compromise in law binding upon the minors upon which a decree could lawfully have been made. In our opinion

there is a difference between a case in which the validity of a decree made upon a compromise in a suit in which a minor is a party is challenged in

appeal from that decree, and a case like the present, where the validity of a decree which has become final is sought to be questioned in a

separate, subsequent and independent suit between the parties.

2. Now in the present case it has not been proved that the decree in the previous suit was in any respect obtained by fraud. It is not shown that the

decree in the previous suit was in any respect disadvantageous to the minors. It would probably be now impossible, if we were to decree this suit,

to put the parties back into the same position in which they were when the decree in the previous suit was made upon the compromise. Further, we

cannot overlook the fact that if we were to hold that a decree based upon a compromise which was not disadvantageous to a minor, but for the

making of which leave had not been given by the Court before it was effected, could be avoided and set aside in a subsequent suit, we should be

opening a door to ruinous litigation in these Provinces in cases in which the Court had in fact sanctioned a compromise before making a decree.

3. On these considerations we dismiss this appeal with costs.