(1869) 02 CAL CK 0002

Calcutta High Court

Case No: Special Appeals Nos. 2000, 2001, 2005, 2010 and 2011

Dukhu Mandal and Others		APPELLANT
	Vs	
Rani Shamasundari Debi		RESPONDENT

Date of Decision: Feb. 6, 1869

Judgement

Glover, J.
This was a suit to recover the value of certain crops alleged to have been cut and carried off by the orders or at the instigation of the Rani Shamasundari Debi, by her servants Baikantha Nath and Umacharan. It appears from the record that the Rani got a decree for khas possession of a share in the zamindari, and in consequence refused to recognize the ryots whom the farmers, Messrs. Jardine, Skinner and Co., who held under the other co-sharers of the estate, had settled upon the land, and these are the ryots whose crops are said to have been carried off.

2. The only point for consideration in this appeal is the personal liability of the Rani. Both lower Courts decreed in favour of the plaintiffs against both the Rani and her servants; the latter have not appealed, so that the fact of "cutting and carrying" being thereby admitted, the only question remaining is whether the Rani is liable for the acts of her servants.

3. It is contended, for the special appellant, that the Judge had no grounds whatever for holding that the Rani ordered the carrying off of the plaintiffs" crops, or even knew of the circumstance, and that there is no legal presumption against her.

4. We see no reason to interfere in this matter. The lower Appellate Court has found, on the evidence, that there had been long-continued litigation between the parties; that the Rani was determined on getting khas possession of the land, and had refused to recognize the ryots whom she found settled on her share; that the actual perpetrators of the trespass were her confidential servants, specially employed in matters concerning her

landed property; that the act done was in furtherance of her known wishes, and for her benefit.

5. Taking all these circumstances into consideration, we think that the lower Appellate Court was justified in presuming the Rani''s knowledge and concurrence, and that there is no ground of special appeal.

6. Special Appeals, Nos. 2001, 2005, 2010 and 2011 are, mutatis mutandis, similar cases, and will he admittedly governed by the same decision.

Loch, J.

7. In the judgment of the first Court, it is admitted by the Subordinate Judge that there is no direct evidence that the Rani gave orders for the plunder of the plaintiffs'' crops, and consequently there is no direct proof that the Rani''s servants were acting under her authority, though they certainly were acting for her benefit when they carried off the crops; for, as shown by the judgment of the lower Appellate Court, the Rani was determined not to recognize the ryots who held from Jardine, Skinner and Co. But it is also clear that the parties who actually plundered the crops were not acting within the ordinary scope of their duty; and therefore, unless it be shown that they acted under the Rani''s authority, or that she subsequently ratified their acts, she cannot be held answerable for their tortious acts, though for her benefit. Addison (Addison on Torts, 2nd Ed., 831) says:--'' To make a trespasser by relation from having ratified and adopted an act of trespass done in his name or for his benefit, it must be shown that the act was ratified and adopted by him with full knowledge of its being a trespass, or of its being tortious, or it must be shown that, in ratifying and taking the benefit of the act, he meant to take upon himself, without inquiry, the risk of any irregularity which might have been committed, and adopt the transaction, right or wrong. In this country it is particularly difficult, it may be said almost impossible, to procure direct credible evidence to prove either that tort was committed under authority, or that the tort was subsequently ratified by the principal. Can it then, in the absence of direct evidence, be presumed that the act complained of by the plaintiffs in this case was committed under the authority of the Rani, or that she subsequently ratified the act? This much may be assumed, in the present case, that the act complained of was done for the Rani''s benefit, and it is not probable that the parties actually engaged in committing the trespass, who were her servants, acted without authority from her or from her Dewan, for they had no personal object to gain from plundering the crops; while from the previous, litigation and her determination to get possession of the lands, though entitled only to a share, and to get rid of the ryots who held from Jardine, Skinner and Co., it was highly probable that she would commit the offence. Looking, therefore, to all the circumstances of the case, it appears tome that a strong presumption arises that the trespass was committed with the knowledge of the Rani; that she has failed to rebut this presumption; and that the conclusion come to by the lower Courts, on the facts and evidence before them, is correct. I, therefore, concur with my colleague in rejecting those special appeals with costs.