

(1869) 02 CAL CK 0008

Calcutta High Court

Case No: None

Girish Chandra Das

APPELLANT

Vs

Gillanders, Arbuthnot and Co.

RESPONDENT

Date of Decision: Feb. 17, 1869

Judgement

Sir Barnes Peacock, Kt., C.J.

This case has been very well argued by Mr. Goodeve, who has collected nearly all the cases on the subject of ratification. But it appears to me that, on the facts found by the learned Judge of the Small Cause Court, he came to a right conclusion that the suit ought to be dismissed. He asks, "under the circumstances stated, can the defendants be held to be liable in damages to the plaintiff for the acts of Umesh Chandra Banerjee and Mr. D'Aubrey in wrongfully and forcibly taking the goods out of the hands of the plaintiff on August 14th, whereby the plaintiff lost his lien in respect of the hire for the carriage of the same?" It appears from the finding that Umesh Chandra was employed by the defendants to land certain goods from the ship Oriana, and the defendants would expect to find that those goods would be carried by Umesh Chandra to the Custom House, and that they would be so far dealt with that on their paying the duty, or having them passed as not liable to duty, they would be entitled to receive them into their godowns. But it is found that the plaintiff had acquired a lien on the goods in respect of the hire of a cargo boat, which he had let to Umesh Chandra for the purpose of landing the goods. There is no doubt that Umesh Chandra and Mr. D'Aubrey committed a trespass in taking the goods out of the hands of the plaintiff; but it is clear, according to the finding, that trespass was committed without the knowledge of the defendants, and without any authority from them. The question is whether the receipt of the goods by the defendants, under the circumstances found, amounted to a ratification of the trespass which Umesh Chandra and Mr. D'Aubrey committed. It is found that the defendants, without knowledge of the circumstances (except so far as Mr. D'Aubrey's knowledge may be held to have been their knowledge, and so far as the letter of the 15th of August 1868 may have conveyed knowledge to them) received

the goods into their godowns. We may lay aside the knowledge of Mr. D'Aubrey, because I think his knowledge was not the knowledge of the defendants, and the question then resolves itself into this, whether the letter which was written on August 15th, 1868, did convey such knowledge to the defendants as would render their subsequent receipt of the goods a ratification by law of the trespass which had been committed. According to the finding which I have read verbatim, they had no knowledge whatever that Umesh Chandra had hired a cargo boat of the plaintiff, nor that any thing was due to the plaintiff for such hire, nor that the plaintiff had acquired a lien on account of the goods. They did not even know that Mr. D'Aubrey and Umesh Chandra had taken the goods forcibly out of the plaintiff's possession. The letter does not state or inform them of the circumstances under which the goods had been taken out of the plaintiff's possession, but merely tells them that Messrs. Judge and Hechle, who were the plaintiff's attorneys, had been consulted with reference to the defendants having trespassed on his cargo boat, and taken forcible and wrongful possession of the goods. The letter tells them that they were well aware that the plaintiff had a lien on the goods for the hire and demurrage of his boat, and must have known that the act complained of was most unjustifiable. The defendants knew they had not committed any trespass on the plaintiff's cargo boat; and this letter gave them no such knowledge or notice of the circumstances as rendered their subsequent receipt of the goods a ratification of the trespass. It might have put them to an inquiry as to the circumstances under which the goods had been taken; but they were not bound to make that inquiry, and the fact of their not inquiring could not convert their subsequent receipt of the goods, without knowledge of the real state of facts, into a ratification of what they did not know. There is no finding that they did inquire; on the contrary, there is a finding that they received the goods without knowing of the seizure. Our answer to the Judge of the Small Cause Court will be that he was right in dismissing the suit; and that, under the circumstances, there was no ratification by the defendants, and that the defendants are not liable. We think that the plaintiff, having failed ought to pay the costs which have been incurred in reserving the question, and stating the same for the opinion of this Court, and otherwise arising there out or connected therewith, such costs to be taxed by the Taxing Officer of this Court on a reasonable scale.