

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar.

SOBHANADRI APPA RAU (PLAINTIFF), PETITIONER,

v.

SRIRAMULU (DEFENDANT), RESPONDENT.*

1893.
Sept. 22, 26.

Guardian and ward—Guardian's power to acknowledge a debt due by the minor, when not barred by limitation at the date of the acknowledgment.

A guardian has authority to acknowledge a debt on the part of the minor, provided that the debt is not barred by limitation at the date of the acknowledgment. *Chinnayé v. Gurunatham* (I.L.R., 5 Mad., 169) followed. *Wajibun v. Kadir Buksh* (I.L.R., 13 Cal., 295) disapproved.

PETITION under section 25 of Act IX of 1887 praying the High Court to revise the decree of M. B. Sundara Rau, Subordinate Judge of Ellore, in Small Cause Suit No. 368 of 1891.

This was a suit to recover from the defendant (a minor) a sum of money on a bond executed by the mother of the defendant as his guardian in revival of an old debt due to the plaintiff's father, which debt was time-barred at the date of the suit. The Subordinate Judge, relying on *Wajibun v. Kadir Buksh*(1), held that the mother had no authority to make a fresh contract and give thereby a fresh cause of action for limitation to the original obligation, and dismissed the suit.

The plaintiff preferred this petition.

Subramanya Ayyar for petitioner.

Respondent was not represented.

JUDGMENT.—This was a suit upon a bond executed by the defendant's mother as his guardian in renewal of an old debt. The Subordinate Judge dismissed the suit on the ground that, but for the new bond, the old debt would be barred by limitation at the date of suit, and that a guardian was not competent to make an acknowledgment on behalf of his ward so as to give a fresh start for the period of limitation. The decision of the High Court at Calcutta in *Wajibun v. Kadir Buksh*(1) is not consistent with

* Civil Revision Petition No. 456 of 1892.

(1) I.L.R., 13 Cal., 295.

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the principle and the decision of the Full Bench of this Court in *Chinnaya v. Gurunatham*(1). According to the last-mentioned decision, the manager of a joint Hindu family, in which there may be minors, has authority to acknowledge a debt, provided that it is not barred at the date of acknowledgment. In my opinion such an acknowledgment may often be necessary to obtain an extension of time for payment of minor's debt and thereby prevent imminent pressure on the minor's property, and I see no reason to think that it is not an act within the general power of a guardian to do what is either necessary in the interest of the minor or what is manifestly for his benefit. Following the principle of the decision of the Full Bench of the Madras High Court, I set aside the decree of the Subordinate Judge and remand the case for disposal on the merits. Costs incurred hitherto will abide and follow the result and be provided for in his revised judgment.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

GANAPATI BHATTA (PLAINTIFF), APPELLANT,

v.

BHARATI SWAMI AND ANOTHER (DEFENDANTS), RESPONDENTS.*

1893.
November 14.
1894.
February 7.

*Hindu law—Powers of the head of a caste in respect of caste customs—
Jurisdiction of the Civil Courts.*

In a matter relating to caste customs over which the ecclesiastical chief has jurisdiction, and exercises his jurisdiction with due care and in conformity to the usage of caste, the Civil Courts cannot interfere.

A gurn, as head of a caste, has jurisdiction to deal with all matters relating to the autonomy of caste according to recognised caste customs. *The Queen v. Sankara*(2) and *Murari v. Suba*(3) cited and followed.

SECOND APPEAL against the decree of S. Subbayyar, Subordinate Judge of South Canara, in appeal suit No. 37 of 1891, affirming the decree of M. Mundappa Bangera, District Munsif of Mangalore, in original suit No. 245 of 1889.

(1) I.L.R., 5 Mad., 169.
(3) I.L.R., 6 Bom., 725.

(2) I.L.R., 6 Mad., 381.
* Second Appeal No. 1603 of 1892.