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mother to question the alienation made by Sabej Kunwar barred the plaintiffs from maintaining the present suit, and the rulings by which that contention was sought to be supported, it is sufficient to say that those rulings evidently proceed upon the assumption that one reversioner derives title from another. I am unable to hold that that is a true proposition under the Hindu law. There is no privity of estate between one reversioner and another *qua* reversioners; therefore the act or omission of one reversioner cannot bind another, on the general principle that no one can be bound by the act or omission of a person through whom he does not derive title. For these reasons I agree in the order proposed by the learned Chief Justice.

BURKITT, J.—I have arrived at the same conclusion. In my opinion no cause of action for the present suit accrued before these plaintiffs' birth, and therefore it cannot possibly be barred by any limitation.

AIKMAN, J.—I concur in the judgments of the learned Chief Justice and my brother Banerji, and in the order proposed.

Appeal decreed and cause remanded.

PRIVY COUNCIL.

P.C. 1899 *April 27th. June 21st.*

IN THE MATTER OF RAJENDRO NATH MUKERJI.

On appeal from the High Court for the North-Western Provinces.

Para. 8 *of the Letters Patent*, 1866—*Removal of a vakil from the roll for reasonable cause—A conviction under section* 471, *Indian Penal Code.*

A vakil of the High Court was convicted, under section 471 of the Indian Penal Code of fraudulently using as genuine a document which he knew to be forged. This was affirmed on appeal, when the punishment to which he had been sentenced was reduced to two years.

The High Court, while not allowing the propriety of the conviction and sentence to be questioned, had considered whether his culpability was such as to disqualify him for his profession, and had decided in the affirmative, removing him from the roll, under para. 8 of the Letters Patent, 1866.

Held, that, in the present case, the conviction, followed by the sentence, was sufficient, without further inquiry, to justify the High Court in making that order. The appellant could not be allowed to have an indirect appeal

Present:—LORD HOBHOUSE, LORD MACNAGHTEN and SIR RICHARD COUCH.

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against the judgment of the Sessions Judge confirmed by the High Court. The judgment of Lord Mansfield in *ex parte Brounsall* (1) referred to as well explaining the disqualification of a member of the legal profession that attends such a conviction and sentence.

In re Weare (2), where the Court of Appeal looked to see what was the nature of the offence and would not, as a matter of course, strike a solicitor off the roll because he had been convicted, distinguished from the present case.

In re Durga Charan (3), dealt with under section 12 of Act XVIII of 1879, referred to as a case where the nature of the offence admitted of further inquiry and also distinguished.

In regard to the finality of the judgment of the High Court in deciding the appeal from the conviction and sentence, *In re the petition of Macrea* (4) was referred to.

APPEAL from an order (4th January 1896) of the High Court (5) in the matter of a vakil of the Court.

The appellant was enrolled as a vakil on the 8th April 1885, and practised till 1895. On the 9th August 1895 he was convicted at the Sessions, at Allahabad, of an offence under section 471 of the Indian Penal Code and was sentenced to a term of rigorous imprisonment for three years. On the 1st November 1895 his appeal was dismissed by the High Court with a reduction of the sentence to two years. The ground of his conviction was the making use of an official copy, filed by him in the High Court, for the purpose of presenting an appeal from a decree of the Saharanpur District Court, in which copy, as he knew, the date had been fraudulently altered, to make it appear that the appeal was not time-barred, as in fact it was.

A question now raised on this appeal was whether the conviction and the sentence of the Sessions Court, affirmed by the Court of Criminal appeal, sufficiently established the unfitness of a vakil to belong to the legal profession, forming a reasonable cause for his exclusion under para. 8 of the Letters Patent, or there should be further consideration of the degree of his culpability as affecting the justice of his removal or suspension from practice.

(1) (1778) 2 Cowper's Rep., 829.
(2) (1893) L. R., 2 Q. B., 439.
(3) (1885) I. L. R., 7 All., 290.
(4) (1891) L. R., 20 I. A., 90; I. L. R., 13 All., 310.
(5) (1896) I. L. R., 18 All., 174.

The conviction and sentence had been brought to the notice of the High Court by the Registrar on the 26th November 1895. The proceedings thereupon, under the above para. 8, the hearing by the Chief Justice and five Judges, and their judgment, are reported in Volume 18, p. 174, of the Indian Law Reports, Allahabad series.

The High Court decided that the propriety in law, or in fact, of the conviction, maintained by the Court of appeal, could not be brought into question. That was final. They, however, considered it incumbent on them to consider whether there existed reasonable cause or not for removing the vakil from practice in the fact of the conviction itself. Their opinion was that the prisoner's Counsel was not precluded from showing, if he could, that the conduct of the vakil was not such as to render him unfit to be retained on the roll, and that the case presented was that the Court should consider the degree of culpability involved in the act which constituted the offence in regard to his removal, or suspension, from practice. Their conclusion was that he had proved himself unfit to remain a member of an honorable profession, and that he must be excluded from it.

The appellant obtained a certificate for appeal under section 595, Civil Procedure Code. On this appeal,

Mr. *J. H. A. Branson*, for the appellant, referred to *In re Weare* (1), where the Court had held that it had a discretion to remove a solicitor or not to do so after a conviction. Also to *In re a solicitor, ex parte the Incorporated Law Society* (2), where the fact of the conviction of a practitioner was not taken to add necessarily to the gravity of his offence in regard to the question of his remaining on the roll. *In re Hill* (3) there referred to. *In re Durga Charan*, and section 12 of Act XVIII of 1879 (4), as reported contained the expression of a former Chief Justice that the pleader in that case could "go behind the

(1) (1893) L. R., 2 Q. B., 439.
(2) (1889) 61 Law Times Rep., Q. B. D., 842.
(3) (1868) 18 Law Times Rep., 564; 3 Q. B., 543.
(4) (1885) I. L. R., 7 All., 290.

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order " of the Criminal Court. *In re Dillet* (1) was also referred to. Afterwards on June 17th their Lordships' judgment was delivered by SIR RICHARD COUCH :—

This is an appeal against an order of the High Court of Judicature at Allahabad made on the 4th of January 1896 whereby it was ordered that the appellant's name should be struck off the roll of vakils entitled to practice before the said Court and his certificate should be cancelled. On the 9th of August 1895 the appellant was found guilty by the Sessions Judge of Allahabad concurring with the assessors under section 471 of the Indian Penal Code of fraudulently using as genuine a document which he knew to be forged, and sentenced to be rigorously imprisoned for three years. He appealed to the High Court by which on the 21st November 1895 the conviction was affirmed and the sentence altered to two years' rigorous imprisonment. On the 27th November 1895 the High Court ordered notice to be given to the appellant to show cause why he should not be removed from the roll of vakils and his certificate be cancelled in consequence of the offence of which he had been convicted. On the 3rd of January 1896 the case came before the Chief Justice and five Judges of the High Court and it was held that the propriety in law or in fact of the conviction could not be questioned, but the Counsel for the appellant was not precluded from showing, if he could, that the conduct of his client in the matter was not such as to render him an unfit person to be retained on the roll of the vakils of the Court. On the next day the same Judges in their judgment after stating the circumstances connected with the offence said that the appellant had attempted to deceive the Court by representing by means of a forged endorsement on a copy of a decree that an appeal was within time when he knew or must have known that it was time-barred; that this offence was not committed by an ignorant man or by a new practitioner unaccustomed to the examination of documents, nor in the hurry of the moment and without due consideration, and

(1) (1887) L. R., 12 App. Cas., 459.

made the order now appealed against. The printed case in this appeal for the appellant consists of a statement of the facts previous to the using by him of the forged document, the evidence of witnesses examined at the trial, and the judgment of the High Court on the 21st November 1895. The reasons given for the appeal are that the High Court was wrong in law in not allowing the propriety of the conviction to be questioned, that the conviction was not justified either in law or in fact, that the appellant did not fraudulently or dishonestly use the copy of the decree, that no reasonable cause had been shown to justify his removal from the roll of vakils, and the evidence given on his trial did not prove any act or practice on his part justifying the order for it. It is plain that the object of the present appeal is to have the judgment of the Sessions Judge and of the High Court on the appeal reviewed and reversed in substance if not in form. This ought not to be allowed. In effect the appellant would indirectly have an appeal against the conviction when if he had petitioned for leave to appeal against it the leave would certainly have been refused. *Ex parte Macrea* (1). Mr. Branson, who appeared for the appellant, admitted that if this review of the conviction was not allowed there were no extenuating circumstances that he could rely upon against the order. He referred to *In re Weare* (2). In that case a solicitor had been convicted by two justices of Bristol of being a party to the continued use of premises as a brothel and sentenced to a term of imprisonment, which sentence was, on appeal to the quarter sessions, set aside, and a fine of 20*l.* substituted. An application was made by the Incorporated Law Society to strike his name off the roll, which was ordered by the Divisional Court, and he appealed from that order to the Court of Appeal. The Court looked at the evidence given at the trial to see what was the nature of the offence, holding that it had a discretion and would not as a matter of course strike him off the roll because he had been convicted. This is a very different case from the present

(1) (1891) L. R., 20 I. A., 90. (2) L. R., 1893, 2 Q. B., 439.

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one. The judgment of Lord Mansfield in *In re Brounsall* (1) quoted by Lord Esher in his judgment is more appropriate to the present case. That was an application to the Court to strike an attorney off the roll, he having been convicted of stealing a guinea, for which offence he was sentenced to be branded in the hand and to be confined in the House of Correction for nine months Lord Mansfield said: "This application is not in the "nature of a second trial or a new punishment. But the ques- "tion is whether after the conduct of this man" (*i.e.* in stealing the guinea—it does not say when, where or how—) "it is proper "that he should continue a member of a profession which should "stand free from all suspicion..... and it is on this principle "that he is an unfit person to practise as an attorney. It is not "by way of punishment, but the Court in such cases exercise their "discretion, whether a man whom they have formerly admitted, "is a proper person to be continued on the roll or not. Having "been convicted of felony we think the defendant is not a fit "person to be an attorney." Lord Esher in Weare's case adds: "There it seems to me is the whole law on the matter laid down "as distinctly as can be, and in a way the propriety of which "nobody, as it appears to me, can doubt." The case in 61 Law Times 842 also referred to by Mr. Branson is only an authority that the Court has a discretion. The case in 7 All. 290 was under Section 12 of Act XVIII of 1879, which gives power to the High Court to suspend or dismiss any pleader holding a certificate who is convicted of any criminal offence implying a defect of character which unfits him to be a pleader. It does not appear in the report whether the Court considered that the conviction of the pleader of cheating was wrong, or that in the exercise of its discretion he should not be suspended or dismissed. It was a case where the nature of the offence might reasonably be inquired into. Their Lordships do not agree with the Chief Justice where he says that the pleader's Counsel was entitled to go behind the conviction in order to show that he had committed no offence at

(1) 2 Cowper's Reports, 829.

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law. In the present case the conviction of forgery, followed by a sentence of two years' rigorous imprisonment, is sufficient without further inquiry to justify the Court in removing the appellant from the roll of vakils and cancelling his certificate. Their Lordships will therefore humbly advise Her Majesty to affirm the High Court's order and to dismiss the appeal.

Appeal dismissed.

Solicitors for the Appellant:—Messrs. *Barrow, Rogers* and *Nevill.*

APPELLATE CIVIL.

1899
July 3.

Before Sir Arthur Strachey, Knight, Chief Justice, and Mr. Justice Knox.

BASDEO (DEFENDANT) *v.* JOHN SMIDT AND OTHERS (PLAINTIFFS).*

Civil Procedure Code, Sections 51, 578—*Plaint not signed by plaintiff or his authorized agent—Effect of such want of signature—Plaint not necessarily void—Breach of contract—Measure of damages.*

Held, that the mere fact that the plaint in a suit has not been signed by the plaintiff named therein or by any person duly authorized by him in that behalf as required by section 51 of the Code of Civil Procedure will not necessarily make the plaint absolutely void. A defect in the signature of the plaint, or the absence of signature, where it appears that the suit was in fact filed with the knowledge and by the authority of the plaintiff named therein, may be waived by the defendant, or, if necessary, cured by amendment at any stage of the suit, and, having regard to section 578 of the Code of Civil Procedure, is not a ground for interference in appeal. *Rajit Ram* v. *Katesar Nath* (1) and *Mohini Mohun Das* v. *Bungsi Buddan Saha Das* (2) referred to. *Marghub Ahmad* v. *Nihal Ahmad* (3) overruled *Mahabir Prasad* v. *Shah Wahid Alam* (4) distinguished. *Katesar Nath* v. *Aggyan* (5) and *Badri Prasad* v. *Bhagwati Dhar* (6) discussed.

The plaintiffs sold to the defendant a certain number of cases of embroidered muslin. The defendant took delivery of some of the cases, but refused to take delivery of or pay for the rest. The plaintiffs re-sold the goods refused by the defendant, and brought a suit against the defendant for damages. *Held,* that the proper of damages was the difference between the contract price

* Second appeal No. 474 of 1897, from a decree of J. E. Gill, Esq., District Judge of Cawnpur, dated the 29th March 1897, confirming a decree of Rai Kishen Lal, Subordinate Judge of Cawnpur, dated the 5th October 1896.

(1) (1896) I. L. R. 18 All., 396.
(2) (1889) I. L. R., 17 Calc., 580.
(3) (1899) Weekly Notes, 1899, p. 55.
(4) (1891) Weekly Notes, 1891, p. 152.
(5) (1894) Weekly Notes, 1894, p. 95.
(6) (1894) I. L. R., 16 All., 240.