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 NECKRAM
 DOBAY
 v.
 THE BANK
 OF BENGAL.

5th to the 20th 8 per cent., and from the 20th to the 30th 9 per cent. The rate of interest on the Government notes was 4 per cent., and it is obvious that the longer the account was kept open, the more the balance would be against the plaintiff. If the plaintiff has sustained any special damage by the conduct of the Bank, the evidence of it is not before this Board. Their Lordships will therefore humbly advise Her Majesty to affirm the decree of the High Court and to dismiss this appeal. The appellant will pay the costs of it.

Solicitors for the appellant: Messrs. *Barrow and Rogers*.

Solicitors for the respondent: Messrs. *Morgan, Price, and Mewburn*.

C. B.

ORIGINAL CIVIL.

Before Mr. Justice Trevelyan.

IN THE MATTER OF ROMON KISSEN SETT AND OTHERS

v. HURROLOLL SETT AND OTHERS.

Arbitration—Submission to arbitration by guardian on behalf of minor—Civil Procedure Code—Act XIV of 1882, s. 525—Infant—Award—Practice.

Case in which a natural guardian had on behalf of her minor sons submitted certain matters to arbitration, and in which the Court referred the case to the Registrar to enquire and report whether the submission and the award thereon were for the benefit of the minors.

THIS was an application on notice calling upon certain persons to show cause, under section 525 of the Civil Procedure Code, why an award should not be filed.

All the parties concerned in the application were descendants of one Radha Churn Bysack, who died possessed of considerable property. Disputes having arisen between such descendants as to the division of the property, they on the 20th July 1889 entered into an agreement amongst themselves, by virtue of which two arbitrators were appointed to decide all matters in dispute, and to divide and allot the immovable property of the deceased, Radha Churn Bysack. At the date of the agreement two of the persons

entitled to share in such property were minors, and the agreement above referred to was signed on their behalf by their mother and natural guardian. On the 11th April 1890, after the execution of the agreement, another of the persons who had signed it and who was entitled to share in such properties, died, leaving three minor sons and a widow.

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On the 16th April 1891 the arbitrators, in pursuance of the agreement, made a partition and division of the immoveable property the subject of the agreement, and on that date published their award.

An application was then made to the Court praying that the award might be filed: the minors in such application being represented by their respective mothers, who, on the application being numbered as a suit, had been appointed their guardians *ad litem*.

Mr. *B. Mittra* for the applicants.—As to whether a natural guardian can submit to an arbitration on behalf of an infant, it is said in *Russell on Arbitrators*, 6th ed., page 18, that an infant may execute or avoid an award, as he may most of his other contracts, and the case of *Harvey v. Ashley* (1) is cited as an authority on the point. In *Rannarain Poramanick v. Sreemutty Dossee* (2) the award come to on submission of the minor's guardian was set aside, so far as it was found to be injurious to the minor. But in *Temmakal v. Subbammal* (3) it was held that all acts of a guardian of a Hindu infant, which are such as the infant might, if of age, reasonably and prudently do himself, must be upheld when done for him by his guardian, and in that case a reference was made to a *panchayat* by the guardian.

No one appeared to oppose the application.

TREVELYAN, J.—The cases appear to show that a minor can set aside an award on coming of age, and that a natural guardian has power to submit to arbitration. I think the best course to pursue is to make a reference to the Registrar to enquire and report whether the submission to arbitration, and the award is, or is not for the benefit of the infants.

Attorney for applicants: Mr. *E. J. Fink*.

T. A. P.

(1) 3 Atk., 607.

(2) 1 W. R., 281.

(3) 2 Mad. H. C., 47.