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We may add that it will perhaps be convenient to consider this reference along with the reference to the Full Bench made by us in Second Appeal No. 190 of 1882 (1).

Mr. *Saunders*, for the appellant.

Mr. *Conlan* and Pandit *Bishambhar Nath*, for the respondents.

The Full Bench delivered the following opinion :—

STUART, C. J., and STRAIGHT, OLDFIELD, BRODHURST, and TYRELL, JJ.—When the suit was instituted it was maintainable as against defendant, for s. 260, Act VIII of 1859, did not apply, as the purchaser was not a certified purchaser under that section. When defendant duly obtained a certificate under s. 317, Act X of 1877, he became a certified purchaser, and the suit will only be maintainable if the plaintiff makes out a case falling within the provisions of the last part of s. 317. With these remarks the case will go before the Division Bench for disposal.

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### APPELLATE CIVIL.

*Before Sir Robert Stuart, Kt., Chief Justice, and Mr. Justice Brodhurst.*

NAND RAM AND ANOTHER (DEFENDANTS) v. SITLA PRASAD (PLAINTIFF).\*

RAM PRASAD (DEFENDANT) v. SITLA PRASAD (PLAINTIFF). †  
*Transfer of hundi—Accommodation bill—Transferees for value—Liability of party accommodated.*

*P* drew a hundi on *S* (which *S* accepted for *P*'s accommodation), which he transferred for value to *B*, who transferred it for value to *C*, who transferred it for value to *R*. *N*, at *R*'s request, and on his behalf, presented the hundi to *S* for payment, and *S* paid it. *Held* that *S* was entitled to recover the amount of the hundi from *P*, but not from *N*. *Reynolds v. Doyle* (2) referred to.

THE facts of these cases appeared to be that the partners of a firm known as Bachai Lal Sheorakhan Lal applied to the defendant Ram Prasad, the owner of a firm known as Bhaya Ram Chutta Ram, for a hundi for Rs. 800. Ram Prasad accordingly

\* Second Appeal No. 511 of 1881, from a decree of J. H. Prinsep, Judge of Cawnpore, dated the 23rd February, 1881, modifying a decree of Pandit Jagat Narain, Subordinate Judge of Cawnpore, dated the 30th March, 1880.

† Second Appeal No. 558 of 1881, from a decree of J. H. Prinsep, Esq., Judge of Cawnpore, dated the 23rd February, 1881, modifying a decree of Pandit Jagat Narain, Subordinate Judge of Cawnpore, dated the 30th March, 1880.

(1) See *ante*, p. 305.

(2) 1 M. & J.; 2 Scott, N. R., 45.

drew a hundi for the required amount, payable to bearer eleven days after date, on Suraj Prasad, the plaintiff in this suit, by whom the hundi was subsequently accepted. The defendant Ram Prasad handed over the hundi to Bachai Lal and Sheorakhan Lal who paid him the money for it. Bachai Lal and Sheorakhan Lal sold the hundi to a firm known as Chunni Lal Kishen Das, who again transferred it for value received to a firm called Ram Charan Lal Ramphal. Ramphal, as representative of that firm, gave the hundi to the defendants Nand Ram and Babu Ram. The hundi was finally presented by a servant of the defendant Nand Ram and Babu Ram to the plaintiff Suraj Prasad, who paid the amount. Nand Ram and Babu Ram entered this transaction in their books as a payment to the credit of Ramphal. Suraj Prasad presented the hundi to the drawer Ram Prasad; and on his declining to pay the amount, brought the present suit against Nand Ram, Babu Ram, Ram Prasad, Ram Charan Lal and Ramphal for the amount of the hundi. The Court of first instance gave the plaintiff a decree against Nand Ram and Babu Ram only. From this decree Suraj Prasad, Nand Ram and Babu Ram appealed; the lower appellate Court dismissed the appeal of Nand Ram and Babu Ram, and gave Suraj Prasad a decree against Ram Prasad. Ram Prasad appealed to the High Court, as did also Nand Ram and Babu Ram. Before the appeals came on for hearing Suraj Prasad died, and his infant son, Sitla Prasad, was made respondent in the appeals in the place of the deceased. The appeals were heard together.

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Mr. *Howell* and *Munshi Sukh Ram*, for the appellant Ram Prasad.

Pandit *Ajudhia Nath*, for the appellants Nand Ram and Babu Ram.

*Munshi Hanuman Prasad* and *Pandit Bishambhur Nath*, for the respondent.

The Court (STUART, C. J., and BRODHURST, J.) remanded the case for the trial of the issues mentioned in the order of remand. The order of remand was as follows:—

STUART, C. J. (After stating the facts as set forth above continued):—Under these circumstances it is clear that no suit will lie against those defendants (Nand Ram and Babu Ram), who are

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indorsees or holders for value, for they got the hundi into their hands in the way of business, after paying the full consideration for it, and they were thus discharged from all liability in respect of it. We are not, however, sure whether the position of the defendants Nand Ram and Babu Ram is really such as we have explained, but if the fact be as we have stated, then these persons were clearly holders for value, and entitled to act as they did, and to receive the money. It would be satisfactory, however, to have some further information respecting them and their business transactions with Ramphal, so as to make it clear, one way or another, that they were or were not *bonâ fide* holders of the hundi for Rs. 800. The relative positions in the matter, moreover, of the plaintiff, Suraj Prasad, the drawee, and Ram Prasad, the drawer, is also not clear; and it ought to be ascertained whether the transaction between them was a *bonâ fide* one for value, or whether the hundi as between them was really in the nature of an accommodation bill. We therefore remand the case for distinct findings on the question whether the plaintiff, as drawee, accepted the hundi for the full value received by him or whether it represented no business transaction between them, and was in fact a mere accommodation bill. Reverting also to the position in the case of Nand Ram and Babu Ram, we must have information as to their dealings with Ramphal, and whether the Rs. 800 which was paid by the plaintiff to their servant for them was due, or any portion of it was due, and how much, in respect of such dealings.

The lower appellate Court found on these issues that the plaintiff did not receive full value for the hundi, which appeared to have been cashed simply as an accommodation to the defendant Ram Prasad; and that the Rs. 800 were not realized by Nand Ram and Babu Ram in payment of any sums due to them by Ramphal, but that they had simply, as bankers, got the hundi cashed at the request of Ramphal, and held the amount for him for about two days.

On the return of these findings the following judgments were delivered in the appeals:—

STUART, C. J., and BRODHURST, J.—The findings on our remand in this case are against the defendant (appellant) Ram Prasad. His resistance to the plaintiff's claim is not very intelligible, if indeed

it was not palpably dishonest, for while the original drawing and accepting of the hundi between the plaintiff and him was of an accommodation character, he yet took the value of it from the first holders, Bachai Lal and Sheorakhan Lal, and kept the money. Therefore, on the plaintiff being ultimately called upon to pay, and paying the value covered by the hundi, he was bound to reimburse the plaintiff, whose demand, under the circumstances in this suit, is a perfectly just one. This conclusion is clearly within the principle of the case of *Reynolds v. Doyle* (1), referred to on p. 130 of Byles' Treatise on Bills of Exchange, 10th ed., where it was laid down—“A party who procures another to lend his acceptance, thereby engages either himself to take up the bill, or else within a reasonable time before the bill becomes due, to provide the accommodation acceptor with funds for so doing, or, lastly, to indemnify the accommodation acceptor against the consequences of non-payment.” Ram Prasad's appeal is therefore dismissed with costs.

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STUART, C. J., and BRODHURST, J.—This appeal must be allowed. Having regard to the findings on our order of remand, the defendants Nand Ram and Babu Ram incurred no liability to the plaintiff. They merely acted as temporary bankers of Ramphal, giving him certain banking facilities for partially cashing the hundi. In fact they appear to have held the hundi for two days, at the end of which time they returned it to him with the balance of the money. Under these circumstances Nand Ram and Babu Ram cannot be said to have incurred any liability to the plaintiff. This appeal therefore prevails, and the suit against these defendants-appellants Nand Ram and Babu Ram must be, and is, dismissed with costs.

*Before Mr. Justice Straight and Mr. Justice Tyrrell.*

THE COLLECTOR OF BENARES AS MANAGER ON BEHALF OF THE COURT OF WARDS OF THE ESTATE OF MASUMA BIBI (DEFENDANT) v. SHEO PRASAD AND ANOTHER (PLAINIFFS).\*

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*Disqualified proprietor—Power to enter into contracts—Act VIII of 1879, ss. 23, 24—Act XIX of 1873 (N.-W. P. Land-Revenue Act), s. 205.*

A suit was brought against a disqualified proprietor for money due on a bond, given while her property was under the superintendence of the Court

\* First Appeal No. 52 of 1881, from a decree of Babu Ram Kali Chaudhri, Subordinate Judge of Benares, dated the 18th March, 1881.  
 (1) 1 M. & G.; 2 Scott, N. R., 45.