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several liability of the co-sharers came to an end. No question was raised or decided in that case as regards jurisdiction.

*Srivastava,*  
*J.*

Section 233(m) of the Land Revenue Act provides that no person shall institute any suit or other proceeding in the Civil Court with respect to "claims connected with, or arising out of, the collection of revenue (other than claims under section 183), or any process enforced on account of an arrear of revenue, or on account of any sum which is by this or any other Act realizable as revenue". The words "connected with or arising out of" seem to me to be very wide, and it is difficult to hold that the present claim is not one arising out of the collection of revenue. In a similar case decided in the late Court of the Judicial Commissioner of Oudh, *Babu Bindeshri Baksh v. Thakurain Gowar Kunwar* (1) it was held that in such cases jurisdiction rests with the Revenue Officers only. I am inclined to agree with this view. I am therefore of opinion that the view taken by the lower appellate court is correct and accordingly dismiss the appeal. The respondent, though served, has not appeared and has incurred no costs.

*Appeal dismissed.*

## REVISIONAL CIVIL

*Before Mr. Justice E. M. Nanavutty and  
 Mr. Justice Ziaul Hasan*

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 January, 30

HARDEO BAKHSH SINGH (JUDGMENT-DEBTOR-APPLICANT) v.  
 BHARATH SINGH (DECREE-HOLDER OPPOSITE-PARTY)\*

*Civil Procedure Code (Act V of 1908), section 99 and Order XXXII, rules 3 and 7—Minor defendant—Guardian ad litem appointed before the date fixed for the purpose and without minor's consent—Compromise injurious to minor's*

\*Section 115, Application No. 52 of 1933, against the order of Babu Kamta Nath Gupta, Munsif of Shahabad, District Hardoi, dated the 18th of March, 1933.

(1) Select Case No. 82.

*interest, sanctioned—Compromise decree, if liable to be set aside.*

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Where the Court appointed a guardian *ad litem* of a defendant before the date fixed for the purpose and before the minor could appear and give his consent to the appointment permitted the guardian to file a compromise, *held*, that the appointment of the guardian before the date fixed for deciding that matter and the absence of the minor's consent to his appointment, may be deemed to be mere irregularities which may, under certain circumstances, be condoned by section 99, C. P. C., but the question which the Court had to consider, and which it failed to do, was whether the minor's interests had been properly safeguarded by the would-be guardian and the compromise being on the face of it, injurious to the interests of the minor no such compromise ought to have been sanctioned by the Court, and the decree passed on such a compromise cannot be allowed to stand.

Mr. *Lakshmi Shankar Misra*, for the applicant.

Mr. *Hakimuddin*, for the opposite party.

NANAVUTTY and ZIAUL HASAN, JJ.:—This is an application for revision against an order of the Munsif of Shahabad in the district of Hardoi, dated the 18th of March, 1933, dismissing the application of Hardeo Bakhsh Singh, minor, through his next friend Debi Singh, for setting aside a decree in favour of the opposite party Bharath Singh based on a compromise.

The facts which have given rise to this application are as follows:

Arjun Singh had two sons Deep Singh and Bhudar Singh. Deep Singh was married to Musammat Phulmati, *alias* Musammat Motka, from whom he had three sons. After the death of Deep Singh, Musammat Phulmati was kept by Bhudar Singh as his mistress, and Hardeo Bakhsh Singh, the applicant before us, is the son of Bhudar Singh by his mistress Musammat Phulmati *alias* Motka. On the 21st of June, 1917, Bhudar Singh executed a mortgage for Rs.100 in favour of one Narpat Singh for three years at 24 per cent. compoundable annually. On the 20th of June, 1932, Bharath Singh, the son of Narpat

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Singh, brought a suit for sale against Hardeo Bakhsh Singh, the minor son of Bhudar Singh, on the basis of the mortgage deed executed by Bhudar Singh. Narpat Singh sued the minor under the guardianship of his mother Musammat Motka. On the 1st of August, 1932, Musammat Motka refused to act as guardian *ad litem* of the minor defendant Hardeo Bakhsh Singh, and thereupon plaintiff was asked to nominate some other guardian. The 6th of September, 1932, was fixed for filing of written statement and 9th September, 1932, for framing of issues. On the 11th of August, 1932, an application was filed by Bharath Singh praying that Mohan Singh, said to be the *haba*, or grandfather, of the minor Hardeo Bakhsh Singh, be appointed as his guardian *ad litem*. Notices were issued to the minor who was over 10 years of age, and also to the proposed guardian under Order XXXII, rule 3(4) of the Code of Civil Procedure to show cause on the 14th of September, 1932. These notices were served on the minor as well as on the proposed guardian. On the 6th of September, 1932, Mohan Singh appeared in Court and applied for permission to file a compromise. This application by Mohan Singh was filed before he was even appointed guardian *ad litem* of the minor, and before the minor, who was 12 years of age, had an opportunity to appear in Court and give his consent to the appointment of Mohan Singh as his guardian. On the very day that the application by Mohan Singh to compromise the suit of Bharath Singh was filed, the learned Munsif of Shahabad, Mr. Bhattacharji, granted the application of Mohan Singh and permitted him to compromise the suit brought by Bharath Singh and a decree was passed in terms of the compromise. Two days later, on the 8th of September, 1932, Hardeo Bakhsh Singh, through his maternal uncle Debi Singh, filed the application, out of which the present application for revision arises, alleging that Mohan Singh was no relation of his and that he was not living with Mohan Singh, but had been living all the

time with his maternal uncle Debi Singh and that Mohan Singh had no authority on his behalf to compromise the suit brought by the plaintiff and that the compromise entered into by Mohan Singh was most injurious to his interests. The learned Munsif, who succeeded Mr. Bhattarcharji, rejected the application of the minor and hence the minor, through Debi Singh, has filed this application in revision.

In our opinion this application must be allowed.

The interests of the minor defendant Hardeo Bakhsh Singh have not been safeguarded by the Munsif of Shahabad. In *Jhinku Singh v. Sital Singh* (1). Mr. Justice Walsh made the following observation:

“The jurisdiction of equity courts over the interests of a minor has always been considered parental and of very solemn obligation, and a Judge sitting in an ordinary common law suit or in a civil suit of any kind has to exercise that jurisdiction when the facts arise and the question of a minor’s consent is involved. No contract or consent order amounting to an apparent surrender or variation of an infant’s rights ought to be sanctioned or listened to for one moment by any Court without requiring some material, calculated to satisfy its mind, and without being satisfied, as far as it can be on materials which are necessarily imperfect, that the proposed arrangement is *bona fide* intended for the benefit of the infant.”

The appointment of Mohan Singh as guardian of Hardeo Bakhsh Singh before the date fixed for deciding that matter, and the absence of the minor’s consent to his appointment, may be deemed to be mere irregularities which may, under certain circumstances, be condoned by section 99 of the Code of Civil Procedure, but the question which the Munsif had to consider, and which he failed to do, was whether the minor’s interests had been properly safeguarded by his would be guardian Mohan Singh. The compromise entered into by Mohan

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(1) (1922) I.L.R., 45 All., 263 (266).

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Singh is, on the face of it, injurious to the interests of the minor and no such compromise ought to have been sanctioned by the Court.

The evidence of Ram Bharose, clerk of Mr. Bajpai, a pleader of Shahabad, fully supports the story told by the applicant minor. The evidence of Debi Singh, who is the maternal uncle of the minor, and through whom the minor has filed the present application, also corroborates the facts stated in the application, and nothing has been elicited from him in cross-examination which would shake our belief in the truth of the story told by him. Sheo Narain Lal, Kaisth, has deposed that Mohan Singh is an employee of the plaintiff Bharath Singh and lives at Bharath's place and that Mohan Singh is no relation of the minor Hardeo Bakhsh Singh. Even in his own affidavit Mohan Singh has not ventured to call himself the real grandfather or granduncle of Hardeo Bakhsh Singh, but has described himself as standing in the position of a grandfather or granduncle. It may be that Mohan Singh by village relationship stands to Hardeo Bakhsh Singh in the position of a grandfather or granduncle, but that would not amount to his being the real grandfather or granduncle of the minor.

We are satisfied that neither Mohan Singh nor the Munsif of Shahabad safeguarded the interests of the minor Hardeo Bakhsh Singh when permission was granted to Mohan Singh to enter into the compromise on behalf of the minor. That compromise is obviously to the detriment of the minor, and grave prejudice has resulted to the latter.

Apart, therefore, from the question of any fraud or collusion on the part of Mohan Singh and the plaintiff Bharath Singh, we are of opinion that the compromise decree, dated the 6th of September, 1932, cannot be allowed to stand.

We accordingly allow this application for revision, and, reversing the order of the lower Court, dated the 18th of March, 1932, set aside the compromise decree,

dated the 6th of September, 1932, and direct that the suit of Bharath Singh be tried *de novo* after the appointment of a duly constituted guardian on behalf of the minor to whom an opportunity should be given of filing a written statement. The applicant will get his costs in this Court as well as in the Court below.

*Application allowed.*

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## APPELLATE CIVIL

*Before Mr. Justice Bisheshwar Nath Srivastava and  
Mr. Justice E. M. Nanavutty.*

SPECIAL MANAGER, COURT OF WARDS, BALRAM-  
PUR (DEFENDANT-APPELLANT) v. TIRBENI PRASAD AND  
THREE OTHERS, PLAINTIFFS AND ANOTHER, DEFENDANT (RES-  
PONDENTS)\*

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*Evidence Act (I of 1872), sections 33, 90 and 115—Presumption as to genuineness of seals—Discretion of trial court in raising presumption under section 90—Appellate court, when should interfere with the discretion—General Clauses Act (X of 1897), section 3(52)—“Sign”, meaning of—Estoppel—Agreement renouncing claim to under-proprietary rights—Landlord granting in lieu a theka—Successors of thekadar, whether estopped from claiming under-proprietary rights—Joint Hindu family—Qabuliat executed by karta—Estoppel against other members of joint family from subsequently claiming under-proprietary rights—Suit to contest notice of ejectment—Statement by a witness that his ancestor was a thekadar—Subsequent suit for possession and declaration—Statement of witness, admissibility of.*

Section 90 of the Indian Evidence Act makes no provision for presumption in regard to seals, nor can a seal be regarded as a signature under the definition of the word contained in the General Clauses Act. *Shailendranath Mitra v. Girijabhushan Mukherji* (1), referred to.

Ordinarily an appellate court would be slow to interfere with the discretion exercised by the lower court in the matter

\*First Civil Appeal No. 97 of 1933, against the decree of Pandit Dwarka Prasad Shukla, Additional Subordinate Judge of Gonda, dated the 21st of September, 1933.