

saying the fact that it is a salutary provision of the law, but it must be remembered that even in England, it is not now administered in all its original severity as embodied in 13 Eliz. c. 7, and legislation has been repeatedly undertaken to limit its scope. Indeed an eminent English Judge, Lord Mansfield, has remarked that "the doctrine of the relation of the act of bankruptcy is in all cases extremely hard, and in many shocking, and it is not to be carried further than we are compelled to carry it." [*Coles v. Wright* (1)].

For the foregoing reasons I am of opinion that the reference to the Full Bench must be answered in the negative.

A. N. C.

#### LETTERS PATENT APPEAL.

*Before Sir Shadi Lal, Chief Justice and Mr. Justice  
Broadway.*

SHIV CHARAN LAL, APPELLANT.

*versus*

BHAWANI SHANKAR AND ANOTHER, RESPONDENTS.

Letters Patent Appeal No. 114 of 1925.

*Guardians and Wards Act, VIII of 1890, section 41 (3):  
Guardian's powers—cessation of—"for any cause", meaning  
of—Jurisdiction—summary power of Court to call for ac-  
counts, etc.*

*Held*, that in sub-section (3) of section 41 of the Guardians and Wards Act, the words "for any cause" are to be understood in their ordinary meaning, and that their scope is not limited by the preceding sub-sections (1) and (2).

*Hence*, as the death of the ward is one of the causes for which the powers of a guardian cease, the Court is empowered to call upon the guardian in such event, to render an account of his stewardship and to deliver the property or

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money belonging to the deceased ward to such person as the Court directs. Upon non-compliance with such order the summary jurisdiction of the Court can be invoked against the guardian for the recovery of the property or money; and that a regular suit is not the only remedy.

*Nataraja Pillai v. Subbaraya Pillai* (1), *Fateh Chand v. Parbatibai* (2), and *Murlidhar Nathu Gujrathi v. Vallabhdas Murlidhar* (3), followed.

*Chandra Bhukhan Singh v. Sujjan Kumwar* (4), dissented from.

*Appeal under clause 10 of the Letters Patent from the judgment of the Hon'ble Mr. Justice Campbell, dated the 18th March 1925.*

BADRI DAS and JIWAN LAL KAPUR, for Appellant.

JAGAN NATH AGGARWAL, for Respondents.

#### JUDGMENT.

SHADI LAL C.J.

SIR SHADI LAL C. J.—The facts relevant to the question of law debated before us may be shortly stated:—One Thakar Das was appointed a guardian of the property of the minor Barkat Ram. The minor suspected the guardian of having misappropriated his property and in October, 1920, he applied to the Court that the guardian be called upon to render accounts. The minor died in August, 1921, and after his death Thakur Das rendered accounts to the Court which found him liable to pay a large sum of money to the minor's estate. He was accordingly directed to deposit in Court the amount due from him; and, as he did not deposit the money, the Court imposed upon him a fine for non-compliance with its order.

(1) 1918 Mad. W. N. 440. (3) (1909) I. L. R. 33 Bom. 419.

(2) (1924) 18 S. L. R. 85. (4) (1920) I. L. R. 42 All. 1.

The question arises whether the summary jurisdiction of the Court could be invoked against Thakar Das for the recovery of the money belonging to the deceased ward, or whether a regular suit was the only remedy available against him.

Now, section 41, sub-section (3), of the Guardians and Wards Act, VIII of 1890, lays down that "When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver, as it directs, any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward." It is beyond dispute that when the powers of a guardian of the property cease in the manner contemplated by the sub-section, the Court is entitled to call upon him to render an account of his stewardship and to deliver the property or money belonging to the ward to such person as the Court directs. There can be no doubt that, just as the death of the guardian puts an end to his guardianship, so does the death of the ward himself. The death of the ward is one of the causes for which the powers of a guardian cease, and I consider that it comes within the ambit of the phrase "for any cause" mentioned in the aforesaid sub-section.

It is, however, argued that the scope of the phrase is limited by sub-sections (1) and (2) of section 41 which enumerate the causes that determine the powers of a guardian of the person or the property of a minor: and, as the death of the ward is not one of the causes mentioned in those sub-sections, the remedy prescribed by sub-section (3) cannot be used against the *quondam* guardian after the death of the ward. I am not prepared to place this narrow construction upon the words "for any cause" used by the Legislature. The words when used in their

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ordinary dictionary meaning are wide enough to include all causes which terminate the guardianship, and it is an established canon of the interpretation of statutes that words should be taken to have been used in their ordinary sense.

There is no valid ground for holding that the scope of the phrase "for any cause" should be curtailed by a reference to the provisions of sub-sections (1) and (2) of section 41. The adoption of such construction would imply that we should substitute in the sub-section, words "for any of the foregoing causes", or some other words to that effect, for the phrase actually used by the Legislature.

It will be observed that section 34 of the Act invests the Court with certain summary powers for the protection of the property of the minor during the period of guardianship and authorises it to require the guardian of the property to exhibit accounts and to pay money due on those accounts in the manner directed by it. It is also conceded that these powers can be exercised when the guardianship of the property is determined by any of the causes specified in section 41 (2). Why should the Court become *functus officio*, if the cause determining the guardianship is the death of the ward? Is there any reason for making this differentiation? Surely, the Court, which has appointed the guardian and is acquainted with his dealings with the property, is in a much better position than any other Court to settle various matters relating to his stewardship of the property. This method of deciding disputes about the nature and the extent of the property and the liability of the guardian with respect to that property provides not only an efficacious but a cheap and expeditious remedy. There is no reason why the Court should be deprived of this jurisdiction when the guardianship is determined by the death of the ward.

Neither the language of the statute, nor general principles furnish any convincing argument to sustain the contention that the death of the ward puts an end to the jurisdiction of the Court over the guardian, and that the property cannot be recovered from the latter without having recourse to a regular suit. It was no doubt laid down by the Allahabad High Court in *Chandra Bhukhan Singh v. Sujan Kunwar* (1) that on the death of the minor the Court has no power to call upon the guardian to deliver up the minor's property, but the contrary view was taken by the Madras High Court in *Nataraja Pillai v. Subbaraya Pillai* (2), in which the decision of a Single Judge was confirmed on appeal by a Division Bench. The same view has been adopted by the Court of the Judicial Commissioner of Sind in *Fateh Chand v. Parbatibai, etc.* (3). The judgment of the Bombay High Court in *Murlidhar Nathu Gujrathi v. Vallabhdas Murlidhar* (4) also proceeds upon the assumption that the Court has jurisdiction to pass orders against a guardian whose powers have ceased by reason of the minor's death.

Apart from the judicial authorities, I am of opinion that the words "any cause" are not restricted to the causes mentioned in sub-sections (1) and (2) of section 41 ; and that the death of the ward, which *ex concessio* puts an end to the powers of the guardian of the property, is a cause within the meaning of that expression.

The appeal is, therefore, dismissed with costs.

BROADWAY J.—I concur.

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BROADWAY J.

*Appeal dismissed.*

(1) (1920) I. L. R. 42 All. 1

(2) 1918 Mad. W. N. 440.

(3) (1924) 18 S. L. R. 85.

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