

Their Lordships feel with the High Court that there are many parts of the evidence which are unsatisfactory and open to grave suspicion. But although this is true their Lordships, having carefully considered the evidence as a whole, have come to the conclusion that the balance of the evidence warranted the decision of the District Judge and that his decision ought not to have been disturbed. They will, therefore, humbly advise His Majesty to discharge the decree of the High Court of the 15th February 1898 and in lieu thereof to make an order dismissing the appeal to that Court with costs and ordering the re-payment of any money paid thereunder. The respondents must pay the costs of this appeal.

1901  
 NOV. 7 & 80.  
 PRIVY  
 COUNCIL.  
 19 C. 111.

*Appeal allowed.*

Solicitors for the appellant : *Sanderson, Adkin and Lee.*

Solicitors for the respondents : *Miller, Smith and Bell.*

29 C. 126.

APPELLATE CIVIL.

*Before Mr. Justice Rampini and Mr. Justice Gupta.*

RAM RATUN SINGH v. SHEW NANDAN SINGH\* [26th July, 1901.]

*Minor, suit by—Estoppel by conduct.*

A minor, who, representing himself to be a major and competent to manage his own affairs, collects rent and gives receipt therefor is estopped by his conduct from recovering again the money once paid to him by instituting a suit through his guardian.

THE plaintiff Ram Ratun Singh, a minor, appealed to the High Court through his guardian and next friend, Achaibar Singh.

The suit was instituted by him through his guardian and next friend for the recovery of arrears of rent for the Bengali years 1301, 1302 and 1303. The defendants Shew Nandan Singh [127] and others pleaded payment of a great portion of the claim, and with regard to the payment of two sums of Rs. 125 and Rs. 99 they produced two receipts signed by the plaintiff himself, which were found to be genuine. The Munsiff was of opinion that they were not valid receipts, in consequence of the plaintiff being a minor, and did not give effect to the payments acknowledged in them. On appeal the District Judge being of a different opinion deducted the said two sums from the plaintiff's claim. It appeared in evidence that the guardian of the minor lived at Gya, whereas the minor was a resident of Shahabad, and he went about collecting rent himself, and that in May 1896 he had put in a petition to the Court alleging that he was over 18 years of age, and asking to be allowed to manage his own affairs. The plaintiff contended that the defendants were not entitled to credit for the amounts alleged to have been paid to him at a time when admittedly he had a certificated guardian.

Moulvi Mahomed Yusoof Khan Bahadur on behalf of the appellant.

Babu Saligram Singh on behalf of the respondents.

\* Appeal from Appellate Decree No. 1828 of 1899, "against the decree of F. H. Harding, Esquire, District Judge of Shahabad, dated the 10th of April 1899, modifying the decree of Babu Jnanendra Chandra Banerjee, Munsif of Arrah, dated the 16th July 1898.

1901  
 JULY 26.  
 ———  
 APPELLATE  
 CIVIL.  
 ———  
 29 C. 126.

RAMPINI and GUPTA, JJ.—The only point in this appeal is whether the plaintiff, who is a minor suing through his guardian, is entitled to recover again from the defendant two sums of Rs. 125 and Rs. 99 which have been found by the Lower Appellate Court to have been paid by the defendant to the minor himself and for which the defendant produced genuine receipts.

The District Judge has held that the plaintiff is not entitled to recover these sums again, and he has refused to give the plaintiff a decree for these amounts.

We are of opinion that the judgment of the lower appellate Court is correct, and that this appeal must be dismissed. It appears that the guardian of the minor lived at Gya, whereas the minor was a resident of Shahabad. The latter went about collecting rents for himself, and in May 1896 he put in a petition to the Court alleging that he was over eighteen years of age, and asking to be allowed to manage his own affairs. We think, therefore, that there is an estoppel by his conduct to prevent the [128] minor from suing again even through his guardian, to recover the sums which clearly were paid to him by the defendant. The guardian chose to neglect his duty, and the minor went about collecting rent and representing himself to the Court to be over eighteen years of age and competent to manage his own affairs.

This amounted to a virtual representation on his part that he was of full age and entitled to collect rent, and it would be very inequitable in these circumstances to allow the plaintiff to recover the above sums again.

The appeal is dismissed with costs.

*Appeal dismissed.*

23 C. 123.

### CRIMINAL REFERENCE.

*Before Mr. Justice Prinsep and Mr. Justice Stephen.*

#### EMPEROR v. LYALL AND OTHERS.\*

[26th, 27th, 28th November and 2nd December, 1901.]

*Jury—Verdict of Jury, disagreement with by Judge—Reference to High Court—Procedure by High Court—Evidence, consideration of—Code of Criminal Procedure (Act V of 1898), ss. 307 and 451—Penal Code (Act XLV of 1860), ss. 147, 149, 325, 348—Assam Labour and Emigration Act (VI of 1901), s. 210.*

S. 307 of the Code of Criminal Procedure requires that the High Court in dealing with a case referred under it, shall consider the entire evidence on the case, and next, after giving due weight to the opinions of the Sessions Judge and the Jury shall deliver judgment. The High Court in such a case is not bound to accept the opinion of the Jury if it is not shewn to be perverse or clearly or manifestly wrong. Without considering the entire evidence the High Court could not be in a proper position to give due weight to the opinions of the Sessions Judge and of the Jury.

IN this case a coolie named Hiroa, one of a number of Bilaspur coolies who were under agreement with the Nonoi Tea [129] Garden, asked for leave of absence on the ground that he was unwell. The second accused Rajoni Cant Ghose, who was in charge of the garden, refused the leave and sent him to work. Subsequently while working

\* Criminal Reference No. 20 of 1901, made by T. Emerson, Deputy Commissioner of Nowgong, dated the 29th August 1901.