

*Judgement of the Lords of the Judicial Committee of the Privy Council on the Appeal of Rani Bhagoti v. Rani Chandan, from the Court of the Judicial Commissioner, Central Provinces : delivered February 7th, 1885.*

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Present :

LORD BLACKBURN.

SIR BARNES PEACOCK.

SIR ROBERT COLLIER.

SIR RICHARD COUCH.

SIR ARTHUR HOBHOUSE.

IN this case the Plaintiff, the younger widow of one Dhiraj Singh, who died on the 10th December 1875, brought her suit to recover half of the property which had been left by Dhiraj Singh. The Defendant was the elder widow of the deceased. The property which was claimed in the suit consisted of 24 villages which are specified in the schedule to the plaint. The Defendant pleaded, first, that the matters between the parties had been referred to arbitration by an agreement in writing, and that there was an award of the arbitrators which decided that the Plaintiff was not entitled to recover half of the property. She further pleaded that the Plaintiff was unchaste before the death of her husband, and that therefore she would not be entitled to inherit the share of the property which was claimed.

In the first Court the Deputy Commissioner of Narsinghpur, who tried the case, framed several issues, two being whether the question of the distribution of the property of Dhiraj Singh had been referred to arbitration, by agreement between the parties in writing, and an award

thereon been made, and whether the agreement was binding. Probably it was meant to include in this issue the question whether the award as well as the agreement was binding. Another issue was, whether the Plaintiff was unchaste before the death of her husband, and so debarred from inheriting. In his judgement he said it was doubtful, he thought, whether the Plaintiff did sign the submission to arbitration; but he did not consider that even if she did it was binding, and he gave a Decree in favour of the Plaintiff for the half-share of the villages claimed.

That decision went by way of appeal to the Additional Commissioner of the Jubbulpore and Nerbudda Division, who came to the conclusion that the submission to the arbitration was signed by the Plaintiff. He also held that the award was valid, and reversed the order of the Lower Court and dismissed the Plaintiff's claim. He says:—"From a careful consideration of all these circumstances, I cannot agree with the Lower Court that the award of the arbitrators is invalid, or that there is any doubt as to the contract by Plaintiff to refer."

Then the case went by way of what was formerly called a special appeal, but which is now called a second appeal to the Judicial Commissioner of the Central Provinces. The Judicial Commissioner, on that second appeal, had no jurisdiction to deal with any findings of fact. The facts as found by the Lower Appellate Court would have to be taken as being the real facts of the case. However, he did deal with the question whether the agreement was signed and made by the Plaintiff, and he considered that the Lower Appellate Court was fully justified in that finding. But he appears to have thought that he could go into the whole case, because he says:—"I have two questions to decide: first, whether the Lower Appellate Court had evidence for

“ the finding that the agreement was genuine ?  
 “ Secondly, whether it was right in upholding the  
 “ award ? ” After finding that the agreement  
 was signed, he went into the question whether  
 the award was to be upheld, and decided that  
 the arbitrators had exceeded their authority in  
 entering into the question of the plaintiff’s chas-  
 tity, and that the award was bad ; and on that  
 ground he reversed the decision of the Additional  
 Commissioner.

The question really now before their Lordships  
 is, whether this award is binding upon the  
 Plaintiff? The submission was made by two  
 agreements, one signed by Rani Chandan, and  
 the other by Rani Bhagoti, the elder widow.  
 The one signed by Rani Chandan, the Plaintiff  
 in the suit, is in these terms:—“ Agreement  
 “ executed by younger Rani Chandan, widow of  
 “ Rao Dhiraj Singh, late Malguzar of Bilehra  
 “ and Karabgaon, to Maharaj Singh (Umpire),  
 “ Malguzar of Mouza Nadia ; Lala Jaget Singh  
 “ (Arbitrator), Malguzar of Mouza Bamhori ;  
 “ Mohanjo Chachandia (Arbitrator), Malguzar of  
 “ Mouza Kathangi ; Thakur Aman Singh (Ar-  
 “ bitrator), Thekedar of Mouza Manakpur ; and  
 “ Raghunath Seth (Arbitrator), of Mouza  
 “ Karabgaon ; to the effect that there is a  
 “ difference between me and the elder Rani about  
 “ our respective rights ; that I have appointed  
 “ you as arbitrators ; that I shall accept what  
 “ you may give as the limit of my rights.”  
 The agreement signed by the Rani Bhagoti is  
 precisely similar in its purport.

There is thus a general reference to the arbi-  
 trators to decide between the two widows upon  
 their respective rights, and particularly with  
 respect to Rani Chandan, the younger, what was  
 the limit of her rights, raising the entire question  
 not merely whether she was entitled to main-  
 tenance, but whether there were facts which

would disentitle her to succeed to any portion of the estate of her deceased husband. The arbitrators, so far as appears, were gentlemen of some position in the neighbourhood, and apparently must have been well competent to decide such a question as this between the two widows. It may also be observed that probably it was the very best tribunal to which a dispute of this kind could be referred. They make their award, and they say :—“ As you, both  
 “ the Ranis, have appointed us as arbitrators and  
 “ umpire with your own consent to settle the  
 “ matter in difference between you about your  
 “ respective rights, we have this day come to  
 “ your place in order to give our decision.  
 “ Inquiries being set on foot, Rani Chandan  
 “ stated that she has been living separate, from  
 “ the lifetime of the deceased Rao Sahib ; that  
 “ he, Rao Sahib, used to provide for her main-  
 “ tenance to the extent of her requirements ;  
 “ that she is not willing to accept that allowance  
 “ now ; and that some separate allowance for  
 “ her should be fixed by the arbitrators accord-  
 “ ing to their judgment, so as to avoid the  
 “ possibility of her being driven to make constant  
 “ demands against the elder Rani.” Then :  
 “ Question by Arbitrators.—Why did the Rao  
 “ Sahib keep you separate and fix a maintenance  
 “ for you ? Answer.—I do not know the reason.”  
 So they heard what Rani Chandan had to say. Then they appear to have heard what the other widow, Rani Bhagoti, had to say, and she stated that :—“ Rani Chandan has always been living  
 “ separate ; that she will pay what Rao Sahib  
 “ used to pay her (Rani Chandan) as maintenance ;  
 “ that the reason why Rani Chandan has been  
 “ living separate is this, that her character has  
 “ been entirely bad, so much as that she cannot  
 “ describe it ; that she (Rani Chandan) is a  
 “ woman of small intelligence ; that for these

“ reasons the Rao Sahib at first intended to  
 “ turn her out, but refrained from doing so to  
 “ avoid a scandal, and was constrained to keep  
 “ her separate and to make provisions for her  
 “ as stated.” Then the award says :—“ on hearing  
 “ the statement of both the Ranis we inspected  
 “ the order passed on the proceedings taken for  
 “ mutation of names.”

Those proceedings, it may be well to mention here, were proceedings which had been taken immediately upon the death of Dhiraj, and which resulted in Rani Bhagoti being found to have been in possession since a date in the deceased's lifetime, and an order for the mutation being made in her favour. The award then goes on :—“ In that order it is held as proved  
 “ that the younger Rani Chandan has been  
 “ living separate and receiving maintenance.  
 “ The statement of the elder Rani was made  
 “ the subject of full inquiries, and it is proved  
 “ to be the whole truth and correct, *i.e.*, the old  
 “ and young people of the village corroborate  
 “ the elder Rani's statement word by word  
 “ The mutation proceedings terminated in Rani  
 “ Bhagoti being put in possession of the estate,  
 “ and the younger Rani being allowed a main-  
 “ tenance.” That was correct. Thus it appears that these gentlemen did make inquiries into the allegation of Rani Bhagoti, and the ground which it was alleged disqualified Rani Chandan from inheriting any portion of her husband's property. They then go on :—“ This we opine  
 “ is quite reasonable and just, and we, the  
 “ arbitrators, hold that this maintenance is all  
 “ that can be allowed, save that we consider  
 “ that a money allowance of Rs. 600 per annum  
 “ be allowed to the younger Rani Chandan for  
 “ her maintenance ; that she be allowed to keep  
 “ her own jewels.” They award her that 600 rupees per annum for maintenance.

Now, upon the face of this award, they appear to have inquired into the matters which had to be inquired into to see what the rights of the two widows were, and especially the right of Rani Chandan. They decided against her, and there does not appear to be any ground for saying that they misconducted themselves, or made any mistake in conducting the inquiry. The only thing apparently that can be suggested arises from the evidence which one of them, Jagat Singh, gave, in which, when he was cross-examined, he seems to have said, in reply to some question which is not given, "How could we give her half when the Sirkar had not done so in the " Dakil Kharij?"—that is, in the mutation proceedings. He may have given that as some reason in answer to a question put to him, Why did you not give her half when you were making this award? But that is not a sufficient ground for saying there was anything like misconduct on the part of this gentleman, nor is there any other ground upon which their Lordships can say that this award ought not to be held to be a binding award.

Their Lordships will therefore humbly advise Her Majesty to reverse the Decree of the Judicial Commissioner. Consequently the decision that the award is binding which was come to by the Lower Appellate Court will stand, and the Respondent will pay the costs of this Appeal.