

(1917) 06 CAL CK 0002
In the Calcutta High Court

Broja Krishna Ghose Sardar

APPELLANT

Vs

Benimadhab Ghose Sardar and Others

RESPONDENT

Date of Decision : 18-06-1917

Acts Referred:

Citation : 41 Ind. Cas. 744

Hon'ble Judges : Newbould, J; Fletcher, J

Bench : Division Bench

Judgement

Fletcher, J,

1. This is an appeal by the plaintiff against a decision of the learned District Judge-of the 24 Pergannahs, reversing the decision of the Munsif at Basirhat. The suit was brought by the plaintiff to set aside certain alienations made by his guardian appointed under the provisions of the Guardians and Wards Act. It is common ground in this case that a suit of this nature must be brought by the plaintiff within three years of attaining majority. The question is whether the present suit was brought within that period. The plaintiff wanted to give in evidence the proceedings in which the guardian was appointed and the cause title of which apparently stated the age of the plaintiff on that date. The learned Judge rejected that evidence, as far as I can see, on these grounds: First of all, that that statement in the cause title in the matter of the Guardians and Wards Act must have been founded upon a statement made by the proposed guardian; the proposed guardian ought to have been called, if he was alive and, if not, the statement made by the guardian to the Court asking for the appointment of the guardian ought to have been put in and, if that could not be produced, then the document now wished to be relied on might have been used for the purpose of showing what the age of the plaintiff was. One cannot, by this short cut, get rid of the formalities prescribed by the Indian Evidence Act. No doubt, in a large number of cases, the manner in which the evidence is let in is extremely loose; but, in the case of an objection, the provisions of the law must be strictly observed and they should be as strictly observed in the Mofussil Courts as in any

other Court. I think, on the whole, that the learned District Judge, in the circumstances of the case, rightly rejected this document. The present appeal, therefore, fails and must be dismissed with costs.

Newbould, J.

2. I agree.