

(1898) 08 CAL CK 0003

In the Calcutta High Court

Case No : Appeal from Appellate Decree No. 955 of 1897

Satish Chandra Guha

APPELLANT

Vs

Chunder Kant Pyne and Others

RESPONDENT

Date of Decision : 29-08-1898

Acts Referred:

Citation : (1898) 08 CAL CK 0003

Final Decision : Dismissed

Judgement

1. This was an appeal from a decision of the Subordinate Judge of Dacca, dated the 16th February 1897. The Plaintiff sued for possession of land on the allegation that his mother, who acted as his guardian, had sold it to the Defendant No. 1. The Defendant No. 1 was in possession of the land, and he claimed to hold it under a deed of sale from the guardian of the Plaintiff who was then a minor. The plea of limitation was raised in the first Court, and it was held by that Court that the limitation was 12 years. The second Court hold that the special law of limitation in Art. 44 of the second schedule was applicable, namely, three years from the minor attaining his majority, and that the Plaintiff not having brought the suit within that time the suit was barred.

2. It was argued at the bar that a person can sue to recover possession of property without suing to set aside the sale by his guardian, and that ho may waive his right in that respect. But what we have to decide here is the question of limitation. There is a special clause put in the Limitation Act of 1877 that if a person after attaining his majority sues to set aside a sale by his guardian ho must bring his suit within three years from the time he attained his majority. It seems to us clear that this suit not having been brought within three years from the time the Plaintiff attained his majority the suit is barred. We accordingly dismiss the appeal with costs.