

BOMBAY HIGH COURT

Motilal Mansukhram

Vs

Maneklal Dayabhai

(N Macleod, Kt., C.J. Fawcett, J.)

22.06.1920

JUDGMENT

Norman Macleod, Kt., C.J.

1. It would have been more satisfactory if the Small Cause Court Judge had given some reasons for coming to the conclusion he did contrary to that he arrived at nine months previously. Still the Privy Council ruling in *Mohori Bibee v. Dharmodas Ghose*¹. is too clear for us to consider any other decision possible. It may be said that a contract purporting to be made between two persons competent to contract, after it is discovered that one of the persons was a minor at the date of the contract, becomes thereby an agreement unenforceable by law, and therefore void under Section 2 of the Indian Contract Act, and until it was discovered to be void on the evidence, because one of the parties was a minor, it purported to be a perfectly good contract, But their Lordships of the Privy Council distinctly say that Section 65 starts from the basis of there being an agreement or contract between competent parties; and has no application to a case in which there never was, and never could have been any contract, and though according to the argument of the applicant's pleader that decision conflicts with the words of the section, still as long as it stands it is binding on us. The rule, therefore, must be discharged with costs.

Cases Referred..

1(1903) I.L.R. 30 Cal. 539 : 5 Bom. L.R. 421, P.C