

# **BOMBAY HIGH COURT**

Dattatraya Shripati Mohite

Vs.

Shankar Ishwara Mohite

A.F.O.D. No. 653 of 1955, Special Civil Suit No. 26 of 1953

(Shah and V.S. Desai, JJ.)

23.01.1959

## **JUDGMENT**

**Shah, J.**

1. (After stating facts not material to this report his Lordship proceeds). We have referred to the diverse admissions made by the defendants from time to time since the year 1939 of the title of the plaintiff to the suit lands. The learned trial Judge ignored these admissions somewhat lightly purporting to rely upon the judgment of Beaumont, C. J., in *Ramabai Shrinivas v. Government of Bombay*<sup>1</sup>. In the view of the learned trial Judge, it was decided in Ramabai's case that admissions made by a person concerning the subject-matter in dispute in the course of a proceeding, cannot have any evidentiary value in adjudging upon the truth or otherwise of the claim made by that person in a subsequent proceeding concerning the same subject-matter. It must at once be observed that Beaumont, C. J., has not laid down any such proposition. We may take this opportunity of stating that the observations made in this case are often misunderstood. Beaumont, C. J., merely laid down that an admission made by a party in a pleading in a civil proceeding will be regarded as binding upon him in that proceeding and he will not be permitted to go back upon it in the course of that proceeding; but the admission cannot be regarded as conclusive and binding upon him in any other proceeding and it is open to him to show that that admission made in the earlier proceeding was in fact not true. The observation on which reliance was placed by the learned trial Judge is contained in the following paragraph :

"The learned Judge, in the case of defendants Nos. 2 and 3, held that Government were bound by an admission in their written statement filed in the original suit of 1913 in which the costs were incurred, and that by that admission Government had knowledge that the lands had been assigned as reward for services; but the learned Judges view on that point is clearly wrong. A party is not bound by an admission in his pleading except for the purposes of the suit in which the pleading is delivered. It frequently happens that a

party is prepared in a particular suit to deal with the case on a particular ground and to make an admission, but that admission is not binding in any other suit, and certainly not for all time. Government may have known much less about the position in 1913 than they know now. If they had

<sup>1</sup>43 Bom LR 232

pleaded erroneously in the suit of 1913 and had discovered the error in time, they could have amended the pleading, and it would be a strange thing to hold that, after the suit had been disposed of, and the chance to amend the pleading had gone, Government were bound for all time by their admission."

It is difficult to hold that by these observations the learned Chief Justice intended to lay down the proposition that an admission on a question of fact made by a party in the course of a proceeding has in another proceeding no value whatever and cannot be regarded as a good piece of evidence relying on which the opposing party may contend that the claim made in the subsequent proceeding is unjustifiable in the light of the admissions made in the earlier proceeding. In our view, Ramabai's case 43 Bom LR 232 is not an authority in support of the view that the Court is not even entitled to consider admissions solemnly made by a party in the course of proceedings in other suits relating to the same subject-matter. We are unable to agree with the observation made by the learned trial Judge in paragraphs 35, 36 and 44 of his judgment that the admissions made by defendants Nos. 1 and 2, in the proceedings in suit No. 565 of 1948 and the revenue proceedings and in the earlier suit No. 3 of 1941 have no evidentiary value. (The rest of the judgment is not material for reporting).

Order accordingly.