

*Judgement of the Lords of the Judicial Committee
of the Privy Council on the Petition to rehear
the Appeals of Venkata Narasimha Appa
Row v. The Court of Wards, and Venkata
Ramalakshmi Garu and others v. Gopala
Appa Row and others, from Madras; delivered
July 17th, 1886.*

Present :

LORD WATSON.

LORD HOBHOUSE.

SIR BARNES PEACOCK.

SIR RICHARD COUCH.

THEIR Lordships are of opinion that this petition must be refused.

The Petitioner asks a rehearing of the Judgement of this Board in these two appeals which was finally approved by Her Majesty in Council in the year 1883. The ground upon which he makes the application is, that he has discovered certain new matter which would, if it had been produced in these appeals, have materially affected the judgement of the Board. After hearing a very full explanation from counsel at the bar, it appears to their Lordships to be exceedingly doubtful whether the documentary evidence, which is said to be new, could have had any bearing or any effect upon the decision of the Board. But it is hardly necessary to consider that point, because some of the documents which are alleged to be new are printed at length in the record formerly before this Board; and that which is now represented by the Petitioner to be the most important of them all is a recommendation of the Special Commissioner, approved of by the Governor in Council on

A 22968. 50.—8/86. Wt. 5607. F. & S.

December 3rd, 1802. That document is fully and correctly described in the record, so that its existence was known to the parties. In short, it is certain that most of the documents were well known to the parties and were actually produced, and that, with reasonable care and diligence, all of them might have been recovered and made evidence, by the ordinary methods of procedure.

Their Lordships are unwilling to dispose of this application on these grounds alone. They are willing to assume, for the purposes of this petition, that a relevant case of *res noviter* is set forth in it,—new matter which would, if it had been submitted to the consideration of this Board, possibly have led to a different decision from that which was formerly arrived at. But in considering the Petitioner's motion for a rehearing, the following facts must be kept in view. It is not alleged that there was any informality in the conduct of these suits from their inception to their close. Both parties appeared before the Committee; they were fully heard upon the merits of the appeals, the Petitioner being at that time represented by the Court of Wards. It is not said that there was any error in framing the judgement of this Board, or that it did not fully and accurately express what the Board intended to decide. Then it was reported to Her Majesty, and was confirmed by regular Orders in Council dated the 3rd May 1882, and the 19th July 1883. No authority has been cited to their Lordships which can warrant them in granting a rehearing under such circumstances as these. It is quite true that there may be exceptional circumstances which will warrant this Board, even after their advice has been acted upon by Her Majesty in Council, in allowing a case to be reheard at the instance of one of the parties. The

cases in which that may be competently done are explained by Lord Brougham in the case of *Rajunder Narain Rae v. Bijai Govind Sing*. His Lordship properly describes this privilege, when allowed, not as a right, but as an indulgence. At page 134 of the first volume of Moore's Reports, his Lordship says: "It is impossible to doubt that the indulgence extended in such cases is mainly owing to the natural desire prevailing to prevent irremediable injustice being done by a Court of the last resort, where, by some accident, without any blame, the party has not been heard, and an Order has been inadvertently made as if the party had been heard." Even before report, whilst the decision of the Board is not yet *res judicata*, great caution has been observed in permitting the rehearing of appeals. In the last case to which we were referred, that of *Hebbert v. Purchas*, in Moore's Reports, volume 7, N.S., where a litigant alleged, before report and approval, that he had been disabled by want of means from appearing and maintaining his case, the Lord Chancellor said:—"Having carefully weighed the arguments, and considering the great public mischief which would arise on any doubt being thrown on the finality of the decisions of the Judicial Committee, their Lordships are of opinion that expediency requires that the prayer of the petitions should not be acceded to, and that they should be refused." There is a salutary maxim which ought to be observed by all Courts of last resort—*Interest reipublicæ ut sit finis litium*. Its strict observance may occasionally entail hardship upon individual litigants, but the mischief arising from that source must be small in comparison with the great mischief which would necessarily result from doubt being thrown upon the finality of the decisions of such a tribunal as this.

