

invalidity of a transfer is pointed out, if it is satisfied that there is such an invalidity, to set aside the document. Therefore in my opinion the deed of gift to defendants Nos. 1 to 4 was good only as regards the life interest of Gulab, and was bad as regards the transfer of a chance which Parvati had at that time to succeed to the reversion. Therefore the appeal succeeds and the decree of the lower appellate Court must be set aside. There must be a decree in favour of the plaintiff for possession of the property with mesne profits from the date of the suit and costs throughout. Under Order XXXIII, Rule 10 the plaintiff to pay court-fees.

Decree reversed.

J. G. R.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Heaton.

SHANKAR SANA KANBI (ORIGINAL DEFENDANT), APPELLANT *v.* SHIVABHAI VALLAVBHAI, MINOR, BY HIS MANAGER, THE TALUKDARI SETTLEMENT OFFICER UNDER THE GUARDIANS AND WARDS ACT (ORIGINAL PLAINTIFF) RESPONDENT.^o

1919.
November 14

Court of Wards Act (Bom. Act I of 1905), section 14 (1)—Notice of claims—Publication of notice in Government Gazette—Further publication of notice desirable.

Under section 14 (1) of the Court of Wards Act (Bom. Act I of 1905), it is desirable that there should be some further publication of the notice calling for claims than the mere publication in the *Government Gazette*.

SECOND appeal against the decision of B. C. Kennedy, District Judge of Ahmedabad, reversing the decree passed by M. M. Bhat, Second Class Subordinate Judge at Nadiad.

1919.

Suit to recover possession.

SHANKAR
SANA
v.
SHIVABHAI
VALLABHAI.

The plaintiff, Talukdari Settlement Officer of Gujarat, sued to recover possession of the plaint land alleging that the estate of the minor Shivabhai Vallaybhai was in charge of the Court of Wards; that a notice calling for submission of claims was published in the *Government Gazette* of 6th June 1907; that the defendant did not submit his claim as a mortgagee within six months as required by the said notice; that therefore, notice was issued to the defendant to give up possession of land on the 25th October 1903 under the Land Revenue Code; that possession was taken of the land on the 3rd June 1914; that defendant took back such possession wrongfully. Hence the suit.

Defendant contended that the notice in the *Government Gazette* was not a proper notice to him and that the allegation about the possession having been taken wrongfully was false.

The Subordinate Judge held that the notice for submission of claims was imperfect and illegal on the ground that the defendant who was a poor ignorant *kunbi* was not expected to read the notice published in *Government Gazette* and there was no proof that there was any further publication of the notice in any other suitable newspapers.

He, therefore, dismissed the suit.

On appeal, the District Judge reversed the decree and allowed the plaintiff's claim holding that the only legal requirement as to the notification, namely, that it should be published in the *Government Gazette* in English and Vernacular had been complied with.

The defendant appealed to the High Court.

G. N. Thakor, for the appellant.

N. K. Mehta, for the respondent.

MACLEOD, C. J.:—The plaintiff brought this suit by his next friend the Talukdari Settlement Officer against the defendant to recover possession of the plaintiff's land with mesne profits for the year 1915, alleging that his estate was in charge of the Court of Wards; that a notice calling for submission of claims was published in the *Government Gazette* of the 6th June 1907; that the defendant did not submit his claim as a mortgagee within six months as required by the said notice; that, therefore, notice was issued to the defendant to give up possession of the land on the 25th October 1913 under the Bombay Land Revenue Code; that possession was taken of the land on the 3rd June 1914 in the presence of the Panch; and that defendant took back such possession wrongfully on or about the 6th June 1914 when the cause of action for this suit accrued. The defendant denied the claim and alleged that the notice did not bind him; that section 14 of the Court of Wards Act did not bind him, nor did it entitle the plaintiff to maintain the present suit against him, a mortgagee in possession. The trial Court dismissed the suit. The plaintiff appealed and his claim was decreed with costs throughout. It is admitted that a notification under section 14 (1) was properly published and also the notice under section 13 (1) to file claims was properly published. The only defence the defendant has, is that he is an illiterate cultivator and could not read the *Government Gazette*. The learned District Judge admitted that it was a hard case. He says:—

It is absurd to suppose that an illiterate cultivator will read the *Government Gazette*. It is, however, just as absurd to suppose that he will read the *Praja Dandhu* or *Gujrati*. No doubt where there are numerous creditors the fact that an application is necessary soon gets about, but it is not always the case that there are numerous creditors. It would be much more satisfactory, if there were public notification by beat of drum in the principal village of the estate and at the taluka town. To give notice to each creditor as suggested by the lower Court is impracticable as the object of Statute is to enable the Court of Wards to ascertain who the creditors are".

1919.

SHANKAR
SANA
v.
SHIVABHAI
VALLABHAI.

1919.

SHANKAR
SANA
v.
SHIVABHAI
VALLABHAI.

I agree with the remarks made by the learned District Judge. It is certainly desirable that there should be some further publication of the notice calling for claims than the mere publication in the *Government Gazette*. Under section 14 (1) the notice would be published in the *Government Gazette* and in such other manner as the Governor-in-Council may, by general or special order, direct, and I think our best course is to send a copy of the proceedings in this case and our judgment to Government, suggesting that some special order should be made under section 14 (1) of the Court of Wards Act with regard to the further publication of notices calling for claims under that section. At present this appeal must be dismissed with costs.

HEATON, J.:—I agree.

Decree confirmed.

J. G. R.

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Heaton.

1919.

November 14.

MANEKLAL MOTILAL, HEIR AND LEGAL REPRESENTATIVE OF PARIKH MOTILAL VRIJLAL, SINCE DECEASED (ORIGINAL DEFENDANT), APPELLANT v. MOHANLAL NAROTUMDAS (ORIGINAL PLAINTIFF), RESPONDENT.*

Right of privacy—Customary right of privacy in Gujarat—Invasion of privacy an actionable wrong—Injunction.

The plaintiff, a resident of Ahmedabad, sued for an injunction to restrain the defendant from invading the privacy of his bed-room by opening a window in the additional storeys erected by him. The District Judge found that the plaintiff had a right of privacy to the particular room and granted the injunction prayed for. On appeal to the High Court,

Held, that in the province of Gujarat the customary right of privacy must be taken to have been proved and the invasion of the right was an actionable wrong.

* Second Appeal No. 518 of 1918.