

**Bhiwa Jotiba Vs. Devchand Bechar**

**LegalCrystal Citation :** [legalcrystal.com/329230](http://legalcrystal.com/329230)

**Court :** Mumbai

**Decided On :** Mar-09-1911

**Reported in :** (1911)13BOMLR280

**Judge :** N.G. Chandavarkar, Kt., and ;Heaton, JJ.

**Appeal No. :** Second Appeal No. 834 of 1908

**Appellant :** Bhiwa Jotiba

**Respondent :** Devchand Bechar

**Judgement :**

N.G. Chandavarkar, J.

1. The lower appellate Court has held that leave of the Court was not obtained under Section 462 of the old Civil Procedure Code (Act XIV of 1882). That being the case, according to the provisions of that section, the compromise could not bind the minor and was avoidable. The Court under circumstances such as those in the present suit, where the minor comes forward to set aside the compromise, has no power to uphold it on the ground that it was for the benefit of the minor or that the minor had derived benefit from it. The legislature has said in so many words that a compromise entered into by the parties to a suit, in which minors are interested, shall not bind the minor unless leave was obtained. See the observations of the Privy Council in Manohar Lal v. Jadu Nath Singh (1906) L.R. 33 IndAp 128 and Virupakshappa v. Skidappa and Basappa ILR (1901) 26 Bom. 109. The compromise must be set aside as not binding the plaintiff. The lower appellate Court having disposed of the case on a preliminary point, we must reverse the decree and remand the appeal for a fresh hearing on the merits. Costs of this appeal on the respondent Other costs to be costs in the appeal in the lower Court.