

*Per WITHERS, J.*—If a next friend claims charge of a minor's property of the value of Rs. 1,000 or over for any of the reasons stated in section 582, he cannot institute an action with reference to that property, unless he first takes out a certificate of curatorship.

D. C., Kégalla, 160 (2 S. C. R. 81, 3 C. L. R. 26), commented upon.

THIS was an action in ejectment brought by the plaintiffs to recover certain lands which they averred they inherited from one Maimo Natchia, and from which they were ousted by the defendants. The fifth and sixth plaintiffs, Ossen and Mahommadu, being minors, the first plaintiff, their father, was, on his application, appointed their next friend for the purpose of this action. On the day of trial, the court *ex mero motu* called upon the plaintiffs' Proctor to show cause why the action should not be dismissed, on the ground that the first plaintiff's appointment as the next friend of the minors was invalid, because no certificate was obtained in accordance with section 582 of the Civil Procedure Code, and no inquiry was made to ascertain the value of the property.

After argument, the District Judge ordered that the case be taken off the trial roll to enable the first plaintiff to obtain the requisite authority to sue under section 582 of the Civil Procedure Code.

The plaintiffs appealed.

The case was argued before LAWRIE, A.C.J., and BROWNE, J., and judgment being reserved, it was, at the request of their Lordships, argued again before the Full Court (consisting of LAWRIE, A.C.J., and WITHERS and BROWNE, JJ.) on the 8th March, 1895.

*Wendt*, for the appellants.

*Sampayo* and *Blazé*, for the respondents.

*Cur. adv. vult.*

12th March, 1895. BROWNE, J.—

In this action fifth and sixth plaintiffs are minors, and before the action was instituted the first plaintiff, their father, was (by Mr. Dunuwille, Acting District Judge) appointed their next friend in order to institute this action of ejectment and for damages against the defendants. It is to be noted, however, that the application was not accompanied by a copy of the plaint proposed to be filed, as this Court (2 C. L. R. 82 and 163, and 1 S. C. R. 302) has directed should be always done.

The appointment was, however, made, and has not been objected to on that ground.