

At the trial, however, the Court of its own instance (Mr. Mason, District Judge, presiding) ordered the action to be taken off the file, on the ground that the plaintiff's appointment as next friend was invalid, because (1) no certificate was obtained in accordance with section 582 of the Civil Procedure Code, and (2) no inquiry was made to ascertain the value of the property; leave was reserved to the plaintiff to rectify his procedure in these respects.

Plaintiff, however, in appeal contends that these requirements were unnecessary. The learned District Judge's order shows he held these necessary, because the defendants had questioned plaintiffs' assertion that the lands of the estate, whereof plaintiffs are heirs, were worth under Rs. 1,000, asserting they were of Rs. 3,500 value, and because in case No. 160 of the District Court of Kégalla (*2 S. C. R. 81, 3 C. L. R. 26*) this Court had suggested that, even if a next friend had been appointed under section 481, it would seem as if section 582 would prevent him from suing until he had also obtained a certificate of curatorship.

It is necessary, therefore, now to rule upon what was then only a suggestion; and in my humble opinion this necessity, that an appointment of a next friend should be supplemented by a certificate of curatorship, does not exist.

In the first place, chapter XXXV. of the Code nowhere so requires it; and it is to be remembered that the two procedures of a minor suing by his next friend, and of a curator obtaining his certificate for all purposes whatever, and, if need be, thereafter bringing an action, are entirely distinct in their nature. The minor may often, as here, be only a necessary party to an action brought by others, the result whereof may or may not give or ensure him a right to some property. It may be that that property and all else belonging to him may be so inconsiderable in value, and so safely guarded for him by his relatives, that not only would certificate of curatorship be unnecessary, but it would be a positive hardship to require it to be taken to his loss in the cost thereof. When, however, his interests require he should have a permanent curator who shall have right to litigate when necessary, but who very possibly may never have to litigate at all, but only to receive and apply the income of the estate, such curator must of course be clothed with the authority of a certificate.

These are the three possibilities: (1) a minor may himself sue by his next friend; (2) his duly appointed curator may sue for him; and (3) a relative of a minor whose estate is under Rs. 1,000, desiring to see the child's rights protected in some action which