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## FROZEN IN TIME: WHY KRISHNAVENI JUDGMENT FAILS MODERN MINORS?

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### ABSTRACT

What happens when the law meant to protect minors ends up limiting them? The Supreme Court's recent judgment in *Krishnaveni v. M.A. Shagul Hameed* once again declares that all contracts involving minors are void from the very beginning. By leaning heavily on *Mathai Mathai* and the much older *Mohori Bibee* precedent, the Court closes the door on a more thoughtful, flexible understanding of how minors engage with the world today.

This paper questions whether such rigidity still makes sense in an era where minors are no longer passive dependents but active participants in economic and digital spaces. Should a contract that clearly benefits a minor be treated the same as one that exploits them? By drawing on Indian case law and global approaches, the paper explores why the law should allow space for fairness, context, and discretion.

Rather than simply criticising the judgment, the paper makes a case for updating our legal imagination, one that still protects vulnerable minors, but without assuming that every contract is a threat. Because sometimes, refusing to adapt in the name of clarity does more harm than good.

## Introduction

The enforceability of contracts, entered into by minors, continues to be a vexed question in Indian Contract Law. This issue has been entrenched in the rigid framework established by the Privy Council's decision in *Mohori Bibi v. Dharmodas Ghose*. The recent judgment by the Apex court in *Krishnaveni v. M.A. Shagul Hameed & Anr.* revisits this contentious issue and reinforces the principle that contracts involving minors are void ab initio. While this decision tries to settle the debate by affirming the precedential authority of *Mathai Mathai v. Joseph Mary*, it sidesteps the nuanced considerations raised in academic critiques and prior case laws.

In the given case of *Krishnaveni v. M.A. Shagul Hameed*, the appellant was a minor at the time when the sale agreement was executed with the respondents.<sup>1</sup> Under this agreement, the minor had agreed to purchase some immovable property. The appellant Krishnaveni through her mother Gowri sought the defendants to perform their part of the contract. The learned counsel for the appellant submitted that the II Additional Subordinate Judge had upheld the enforceability of the agreement by citing earlier decisions in *Raghava Chariar v. Srinivasa Raghava Chariar* and *Thakar Das and Ors. v. Putli*, which allowed contracts for a minor's benefit to be considered valid. However, The Supreme Court rejected the precedents and termed them inconsistent with the binding authority of *Mathai Mathai*.<sup>2</sup> The court held that the contract was void ab initio and was thus not enforceable.

In this paper, ***I argue that the Krishnaveni judgment seeks to provide doctrinal clarity but fails to adequately engage with academic critiques and lacks a pragmatic approach.*** To that end, the first part criticizes the earlier precedents established, which categorically deems contracts with minors void ab initio. The second part discusses the inequities resulting from the unenforceability of these agreements which leaves Indian law ill-equipped for contemporary challenges.

## The Tyranny of Precedent

The court's reliance on *Mathai Mathai v. Joseph Mary* underscores the pervasive influence of the judgment in the *Mohori Bibi* case. In *Mohori Bibi v. Dharmodas Ghose*, The Privy Council

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<sup>1</sup> *Krishnaveni v. M.A. Shagul Hameed & Anr.* [2024] SC 1903.

<sup>2</sup> *ibid.*

held that a contract with a minor is void ab initio,<sup>3</sup> thereby preventing enforceability and restitution. Section 10 of the Indian Contract Act of 1872 mentions that all agreements made with the 'free consent' of parties who are 'competent' to contract are enforceable as contracts.<sup>4</sup> Section 11 states that minors are not competent to contract.<sup>5</sup> While the Act goes on to specifically set out the consequences of vitiated 'consent' in section 19,<sup>6</sup> it omits to spell out the consequences of contracting with a minor. Nevertheless, the Privy Council read the act as having a definitive answer. Indian courts have since invoked Mohori Bibee in bloodless abstraction as if it were an unquestionable axiom of Indian Contract law.<sup>7</sup> Academic commentators like Swaminathan and Surana have long criticized the Mohori Bibee case for its lack of nuance. They argue that it adversely impacts minors by ignoring moral and economic considerations.<sup>8</sup>

In one such popular case of *Mathai Mathai v. Joseph Mary*, the Supreme Court has revisited this area of law and has done away with the 'executed contract'<sup>9</sup> an exception to Mohori Bibee as being based on an "erroneous interpretation".<sup>10</sup> The court held that a deed of mortgage is a contract and we cannot hold that a mortgage in the name of a minor is valid, simply because it is in the interest of the minor. The law cannot be read differently for a minor who is a mortgagor and a minor who is a mortgagee as there are rights and liabilities in respect of the immovable property that would flow out of such a contract on both of them.<sup>11</sup> Therefore, this Court has to hold that the mortgage deed, is void ab initio in law.<sup>12</sup> For a judgment of such significant importance, the decision in *Mathai Mathai* is surprisingly bereft of reasoning or authority. The Supreme Court could easily have avoided getting into this issue given that this point was not argued by any party even before the Supreme Court. But having chosen to decide based on this argument, at least the prior decisions of the various High Courts on this subject should have

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<sup>3</sup> *Mohori Bibee v. Dharmodas Ghose* [1903] 30 Cal 539.

<sup>4</sup> Indian Contract Act 1872, s 10.

<sup>5</sup> Indian Contract Act 1872, s 11.

<sup>6</sup> Indian Contract Act 1872, s 19.

<sup>7</sup> Shivprasad Swaminathan & Ragini Surana, 'Minors' Contracts: A Major Problem with the Indian Contract Act, 1872 (2021) 42 Statute L Rev 101.

<sup>8</sup> *ibid.*

<sup>9</sup> Executed contracts are agreements where one or both parties have fully performed their obligations under the terms of the contract. under the doctrine established in *Mohori Bibee v. Dharmodas Ghose*, minors are deemed incapable of contracting, and such agreements are void ab initio. This rule complicates scenarios where a contract has already been performed by one party and the minor has benefitted from it.

<sup>10</sup> *Mathai Mathai v. Joseph Mary and Others* [2015] 5 SCC 622.

<sup>11</sup> *ibid.*

<sup>12</sup> *ibid.*

been considered, and either distinguished or expressly overruled.<sup>13</sup> There is an inherent logic to the executed contracts exception to *Mohori Bibee* – and a reading of *Mohori Bibee* in *Mathai Mathai* that appears to render all contracts with minors as being void ab initio is overbroad, and with respect, requires re-consideration.<sup>14</sup>

While *Mohori Bibee* emphasized the complete incapacity of minors to contract, Section 68 of the ICA provides a narrow exception to the general rule that contracts with minors are void ab initio. It permits restitution in cases where necessaries are supplied to a minor or someone legally dependent on them.<sup>15</sup>

The Krishnaveni judgment which directly depends on the *Mathai Mathai*, which further relies on the *Mohori Bibee*, is flawed. The judgment seeks to settle the law on this contentious issue based on strict legal interpretation of the precedents and maintain legal consistency but at the same time raises questions about the broader implications of such consistency. One of the notable aspects of the Krishnaveni judgment is its limited engagement with academic critiques of the judicial approach to minors' contracts. While the Court's reaffirmation of established principles provides legal certainty, it also entrenches a doctrinal rigidity that may not align with the dynamic nature of societal interactions. The controversy surrounding the enforceability of contracts benefiting minors persists, as the Court's strict stance leaves no scope for judicial discretion in exceptional cases.

### **Breaking the Chains of Rigidity**

There are a number of moral considerations at play that go into justifying whether in a given case, the contract involving a minor should be enforced which include protecting the minor from rash decisions, the interest of the minor in accessing the market, and the interests of those who fairly deal with the minors.<sup>16</sup> The rule that minors' contracts are void ab initio balances these considerations rather poorly and most problematically, adversely impacts the interests of the minors it seeks to protect.<sup>17</sup>

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<sup>13</sup> Sir Frederick Pollock & Sir Dinshaw Fardunji Mulla, *Pollock and Mulla the Indian Contract and Specific Relief Acts* (16th edn., Anirudh Wadhwa ed., 2021).

<sup>14</sup> Anirudh Wadhwa, 'Mathai Mathai v. Joseph Mary: A Step Backwards?' [2015] 1 National Law School Business Law Review 127, 141.

<sup>15</sup> Indian Contract Act 1872, s 68.

<sup>16</sup> Shivprasad Swaminathan & Ragini Surana, 'Minors' Contracts: A Major Problem with the Indian Contract Act, 1872 (2021) 42 Statute L Rev 101.

<sup>17</sup> *ibid.*

The argument that contracts entered into by minors should be enforceable if beneficial to them finds support in precedents like *Raghava Chariar* and *Thakar Das*. While limited in their application, these judgments represent an attempt to align the legal framework with equitable principles. In the case of *Raghava Chariar vs. Srinivasa*,<sup>18</sup> a mortgage deed was executed in favour of a minor who had advanced the whole of the mortgage money. The question arose whether the mortgage executed in favour of a minor was enforceable by the minor or by another person on his behalf. The unanimous opinion of the Full Bench was that the transaction was enforceable by or on behalf of the minor. The provision of law which renders minors incompetent to bind themselves by contract was enacted in their favour and for their protection, and it would be a strange consequence of this legislation if they were to take nothing under transfers in consideration of which they have parted with their money.<sup>19</sup> A sale that is in favour of a minor could be enforced.<sup>20</sup> In another case of *Great American Insurance Co. Ltd v. Mandanlal Sonulal*, the defense of an insurance company that the person on whose behalf the goods were insured was a minor was rejected and the minor was allowed to recover the insurance money.<sup>21</sup> It may be said that a person incompetent to contract may yet accept a benefit and be a transferee and so although a sale or mortgage of his property by a minor is void, a duly executed transfer by way of sale<sup>22</sup> or mortgage<sup>23</sup> in favour of a minor who has paid the consideration money is not void, and it is enforceable by him or any other person on his behalf.<sup>24</sup> By categorically rejecting this reasoning in the Krishnaveni judgment, the Supreme Court has effectively closed the door on judicial discretion in cases involving minor's contracts.

The appellants in the Krishnaveni case relied on equitable considerations that contracts that benefit minors should be enforceable by drawing analogies to principles found in other jurisdictions.<sup>25</sup> Recognizing the complexity of the issue, the English Common Law has developed a pragmatic approach to minor's contracts. Contracts for necessities are binding on minors<sup>26</sup>, contracts for service are binding on the minor if they are beneficial to the minor<sup>27</sup>,

<sup>18</sup> *A.T. Raghava Chariar v. O.A. Srinivasa Raghava Chariar* [1916] 31 MLJ 575.

<sup>19</sup> *ibid.*

<sup>20</sup> *Thakar Das and Ors. v. Putli* [1924] Lah. 611.

<sup>21</sup> *Great American Insurance Co. Ltd v. Mandanlal Sonulal* [1935] 37 BOMLR 461.

<sup>22</sup> *Munni Koer vs. Madan Gopal* [1916] 38 ALL 62.

<sup>23</sup> *A.T. Raghava Chariar v. O.A. Srinivasa Raghava Chariar* [1916] 31 MLJ 575.

<sup>24</sup> Sir Frederick Pollock & Sir Dinshaw Fardunji Mulla, *Pollock and Mulla The Indian Contract and Specific Relief Acts* (16th edn., Anirudh Wadhwa ed., 2021).

<sup>25</sup> *Krishnaveni v. M.A. Shagul Hameed & Anr.* [2024] SC 1903.

<sup>26</sup> GH Treitel, *The Law of Contract* (14th edn, Sweet and Maxwell 2015).

<sup>27</sup> *ibid.*

and a minor's contract for the purchase of land is voidable at their option<sup>28</sup>. This flexibility has been championed by legal scholars who argue that the rigid legal interpretation of contractual incapacity may lead to unjust outcomes. Such rigidity disregards the complexities of modern transactions, where minors increasingly engage in economic activities that are beneficial for their personal and professional development. The appellants' reliance on these principles underscores the need for the Indian judiciary to reconsider its current stance and adopt a more balanced framework.

A rigid rule that makes all minors contracts absolutely void, not only fails to recognize the complex moral considerations at play but also, in the ultimate analysis ends up prejudicing the very interests of the minor which it seeks to protect.<sup>29</sup> A potential way forward lies in distinguishing between different types of minors' contracts. Contracts that exploit minors or impose burdensome obligations should undoubtedly remain void and unenforceable. However, agreements that confer genuine benefits or involve fair dealings could be treated as voidable, subject to judicial scrutiny. Such an approach would ensure that the law serves its protective function without infringing on the minor's autonomy.

## Conclusion

This paper tried to answer two important questions that arose from the Supreme Court decision in *Krishnaveni v. M.A. Shagul Hameed & Anr.* Firstly, whether the court settled the law on this controversial point of Indian law, and second whether the decision paid heed to the academic commentators who cautioned on the judicial approach in India.

The Krishnaveni decision represents both a resolution and a continuation of the debate surrounding the minor's contractual capacity. By reaffirming the principles established in Mathai Mathai and Mohori Bibee, the court sought to provide clarity as well as consistency. However, its strict adherence to statute and dismissal of equitable considerations reveal the limitations of the current legal framework. The Court's limited engagement with academic perspectives underscores a missed opportunity to develop a more holistic doctrine.

In addition, the law must adapt to the times and Indian Contract Act 1872, a pre-independence

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<sup>28</sup> *ibid.*

<sup>29</sup> Shivprasad Swaminathan & Ragini Surana, 'Minors' Contracts: A Major Problem with the Indian Contract Act, 1872 (2021) 42 Statute L Rev 101.

statute needs to be reviewed to include elements that are appropriate for the digital era. As societal norms and commercial realities start to evolve, the judiciary must reimagine its role not merely as a guardian of precedent, but also as a catalyst for legal progress that embraces flexibility and justice.

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