

1922.

Present: Ennis and Porter JJ.

PETER v. COMPAGNIE DES MESSAGERIES MARITIMES

322—D. C. Colombo, 637.

Bill of lading—Goods to be delivered to " a M—A ordre "

A firm in France consigned to plaintiff in Colombo goods by a ship belonging to defendant company. The bill of lading showed that the goods were to be delivered " a M.—a ordre." The bank to which the bill was sent endorsed the same and gave it to the plaintiff. The defendant company refused delivery of the goods, alleging that they had no order from the shipper.

Held, that the plaintiff was entitled to the delivery of the goods. The bill of lading was one for delivery of the goods to the order of an unnamed consignee, and not one for delivery of the goods to the order of the consignor. It did not require endorsement, but could be transferred by mere delivery.

THE plaintiff sued the defendant for the recovery of a sum of Rs. 376.48 being the value of certain goods which the plaintiff alleged the defendant wrongfully refused to deliver to him, and for a sum of Rs. 56.40 by way of damages for the said alleged wrongful refusal.

The goods had been consigned to Colombo on the defendant company's line of steamers by the firm of Marie Brizard and Roger of Bordeaux.

The defendant company denied that the refusal on their part to deliver the goods to plaintiff was wrongful, inasmuch as the bill of lading presented by the plaintiff to defendant company was not properly endorsed.

The District Judge entered judgment for plaintiff.

The bill of lading was as follows:—

A. Par Vapeur de Bordeaux a La Pallice.

Bordeaux le 22nd October, 1920.

Ont ete recues de M Les Maritiers de Maria Brizard and Roger pour etre chargees sur le Vapeur francais Dr. Pierre Benoit, Capitaine, X on sur le suivant, etre transportees a Colombo et delivrees a M a ordre, &c.

Marques.	Numeros.	Nombre.	Contenu Declare.	Poides declare.	Mesure declare.	Valeur declare.	Sommes garanties							
J.R.P.	..	1/5	..	5	..	Caisses Liqueurs	..	138	..	k.	..	501	..	Francs

Colombo

La presente expedition est faite aux clauses et conditions, tant generales que particulieres, stipules ci-apres, dont le chargeur a pris connaissance et qu'il declare accepter, &c.

Le defect de signature du chargeur ne prejudicie pas a la valeur des clauses qui precedent.

(Sgd.) By Le Chargeur.

(Sgd.) By Le Capitaine.

Garvin, for defendant, appellant.

A. St. V. Jayawardene, K.C. (with him L. H. de Alwis), for plaintiff, respondent.

March 8, 1922. ENNIS J.—

This was an action for the value of certain goods and for damages. The claim for damages was waived. The plaintiff is the holder of a bill of lading, and he complains that the defendant company refused to deliver the goods mentioned in the bill of lading to him. At the trial it was agreed that should judgment be given in favour of the plaintiff, the goods would be delivered. The learned Judge found in favour of the plaintiff, and the defendant appeals. The bill of lading shows that the goods were to be delivered "a M—a ordre." The bill of lading is signed by the shipper and the captain of the ship at the foot of the conditions at the back of the bill of lading. It is then endorsed by the Chartered Bank of India for delivery to J. R. Peter, the plaintiff in the case. The defendant company contend that this bill of lading is not properly endorsed, that it is not a bill of lading in blank, but a bill of lading for delivery of the goods to the order of the consignor and not of the consignee. The agent of the defendant company in giving evidence said that he had no order from the shipper, and was awaiting his order before delivering. He contended that the words *a ordre* found in the bill of lading affected a cancellation of the words *a M*. It is to be observed, however, that these words have not been in fact cancelled, and there is a blank after them, so that the bill of lading would seem to read that delivery was to be made to an unnamed person or his order. I, therefore, agree with the learned Judge's interpretation of the bill of lading that it is one for delivery to the order of an unnamed consignee and not one for delivery of the goods to the order of the consignor. The learned Judge relied upon a passage in *Halsbury's*

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Laws of England, vol. 11., p. 158, which ran: " If the bill of lading does not name the consignee, but makes the goods deliverable to bearer or order, or assigns the space for the name of the consignee being left blank, it may be transferred by delivery without endorsement. "

Our attention has been called to a very similar passage in *Scrutton's Charter Parties and Bills of Lading, 5th ed., p. 140*, to the effect that where the goods are delivered to a name left blank, the bill of lading passes from hand to hand by mere delivery. These passages are based on the authority of *Sewell v. Burdick*,¹ which in turn relies upon the case of *Lickbarrow v. Mason*.² In the present case the bill of lading appears to have been sent by the consignor to the Chartered Bank of India in Colombo with instructions to collect the payment and hand over the bill of lading on receipt of the same. The bank did this, and endorsed it to the plaintiff in the present action. It would seem then that the plaintiff is the legal owner of the goods, and entitled as against the consignor to the delivery of the goods. The judgment in favour of the plaintiff is therefore in order, and I would dismiss the appeal, with costs.

PORTER J.—I agree.

Appeal dismissed.
