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# **CASE NOTE ON HUTTON V. CAR MAINTENANCE CO. (1915) 1 CH 21**

AUTHORED BY - AKSHAT JAIN

## **ABSTRACT**

*This paper explores the right of lien under Section 170 of the Indian Contract Act, 1872, which allows a bailee to retain goods if the bailor fails to pay for services rendered. This right is limited to instances where the bailee's skill or labor has improved the quality or condition of the bailed goods. Through case studies such as Hutton v. Car Maintenance Co., the paper highlights the challenges faced by bailees providing maintenance or storage services, as these do not enhance the goods' condition and thus fall outside the purview of Section 170.*

*The analysis reveals a significant gap in the current legal framework, where courts consistently deny the bailee's right to lien in cases lacking tangible improvement of goods. This loophole allows bailors to evade their financial obligations, undermining the bailee's right to fair compensation. Cases reviewed show that judicial precedents have repeatedly restricted the right of lien to improvements only, neglecting the substantial effort and expenses involved in maintaining or storing goods.*

*To address this issue, the paper proposes revisiting and amending Section 170 to include services that maintain or preserve the condition of bailed goods. Such amendments would provide comprehensive protection for bailees, ensuring they receive due remuneration for all types of services rendered. By closing the existing loophole, the law would prevent bailors from exploiting the provision to avoid payment, fostering a more equitable contractual environment. This paper advocates for a balanced legal framework that recognizes the diverse nature of services provided by bailees and upholds their right to fair compensation.*

## **I. INTRODUCTION**

In accordance with the purpose of the bailment, if the bailee by his skill or labour improves the standard/quality of the goods bailed, the bailee is entitled to the remuneration for such services. Towards such remuneration, the bailee can retain the goods bailed if the bailor refuses to pay

the remunerations, such right to retain goods is the 'right of lien'. If the bailee in any case retains the goods bailed, has no right to sue the bailor for the remunerations.

The right of lien is one of the few rights vested to the bailee. The Indian Contract Act, of 1872 classifies the right of lien in two types: Particular lien and general lien. Section 170 of the aforementioned Act defines '*particular lien*' which states, in the course of bailment when the goods have to be taken care of, or work done upon them, and no remuneration is given to the bailee for the same, a right to retain such goods until remuneration is received for the services performed.

The following case law is one of the major case laws that defined and expanded the right of lien of bailees. This case with reference to other cases opens some crannies in the law that could become a complication to deal with in the near future, as it signifies the bailee's rights being hurt.

## II. FACTS OF THE CASE

The plaintiff (owner of the car) and the defendant (company) entered into an agreement, to maintain the plaintiff's car for three years on a fixed annual payment. After a period of time, the amount that the bailor agreed to pay to the defendant for maintenance of his car (Rs. 8000) became due, following which the company exercised its right of lien.

## III. DECISION HELD

The honorable court in this matter held that the company's (defendant's) duty was only to maintain the plaintiff's car in its former condition, and there was no such performance by the company or, obligation performed by the company which would have eventually improved the condition of the bailed car. Thus, the defendant, in this case, was not eligible to exercise their right of lien over the car because this particular right could only be employed when the bailee with his skill or labour improves the quality of the good.

## IV. ANALYSIS

The defendant's claim in this issue was to get remuneration for the 'services' he has rendered on the plaintiff's car, which was to maintain it. The defendant claimed that the default in paying the promised amount by the plaintiff gives him the power to exercise the lien over the car, as

he has put his labour and skills to perform his obligation of the contract. The learned Judge Seargent J. noted that there are no authorities to be found that depict if the party to the contract does not improve the standard of the good bailed, whether a contractor can exercise a lien over the goods for the expenses spent to maintain the article. There was no record or evidence to prove that the bailee had improved the standard of the car bailed by his skill or labour. In the case of *In Re Southern Livestock Producers Ltd.*<sup>1</sup> Pennycuik J. held that it is clear that unless a scope of improvement is established by the bailee, he has no power to exercise a lien over bailed goods.

Similarly, when the bailee claimed a lien on the sugar stored on request of the bailor, it was held that such bailment didn't include any type of service involving skill or labour within the scope of section 170 of The Indian Contract Act, 1972 the bailee was not entitled to exercise lien.<sup>2</sup> The same reasoning was applied in *Vithoba Laxman Kalar v. Maroti Ukandsa Kalar*<sup>3</sup>, the facts were, that cattle were bailed to the person (bailee) for grazing, and later bailee exercised a lien on cattle to claim the charges for grazing them, it was held that the bailee does not have the right of lien over the cattle as there was no improvement by skill or labour done. This particular right depends upon the possession of the goods and when there is no possession this right also gets extinguished. After repairs, the affected party's handover of possession permanently ends the repairer's lien for the costs of those repairs; this lien cannot be renewed because the repairer made additional, purely gratuitous repairs that had nothing to do with a new contract.

In the case of *Kalloomal Tapeshwari Prasad & Co v RC&F Ltd*<sup>4</sup>, the defendant was engaged in the manufacture of fertilizers and chemicals and also has a business of the same, it used to appoint stockists in various towns. The appellant was one of the buffer stockists at Kanpur. As it was mentioned in the agreement, the appellant was the company's stockist for 'handling and storing fertilizers. The dispute between the parties was that while the plaintiff was required to provide accommodation for 5000 metric tonnes of fertilizers, the respondent sent a much larger consignment (more than 5000 metric tonnes), as a result appellant had to make alternative arrangements to store the fertilizers at a higher rate. Subsequently, the respondent failed to pay the same, and as a result, a huge sum of money became outstanding against the respondent,

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<sup>1</sup> [1964] 1 WLR 24

<sup>2</sup> Chand Mal v. Ganda Singh, 1885 Rec No 60, p.126

<sup>3</sup> 1940 SCC OnLine MP 103

<sup>4</sup> 1990 SCC OnLine All 140

therefore, the plaintiff exercised his bailee's right of lien under section 170 of the Indian Contract Act, 1872, and rejected the defendant's directions for returning the goods.

It was contended that the goods belonged to the defendant and the plaintiff has no right to retain the same against his wishes, as nothing is outstanding from the defendant and the entire amount as per agreement had already been paid to the plaintiff. The honorable court in this case, examined the nature of the contract that was signed between the parties, the honorable court held that the plaintiff has no power to exercise the right to a lien because there was no labour or skill rendered by the plaintiff which would have eventually improved the quality of the goods and there can be no improvement that can take place in the goods just by storing them in the godown.

In the case of *EH Parakh v. G. Mackenzie & Co. Ltd.*<sup>5</sup>, Parakh bought a car and some accessories from Messrs. G. Mackenzie, for his firm. When the company was asked to cover the cost of the accessories, it instructed the sellers to return the vehicle and deduct the purchase price. The sellers filed a suit (at Kolkata) against Parakh to recover the amount due for accessories bought, while Parakh initiated a countersuit (at Lucknow) to recover the balance price of the car after adjusting for the accessories as he sold the car to them to alter the amount due within the balance due to him for the car. The suit at Lucknow held that the car was sold to the defendants. And now it was their turn to accept delivery. Parakh held until the garage's fees for keeping the automobile were paid.

The honorable court later concluded that section 170 doesn't apply in this case because Parakh is not a bailee and has not rendered any skill or labour to improve the condition of the car. The honorable put up its view that "Such labour and skill must have been spent; firstly, in accordance with the purpose of the bailment; secondly, to improve the goods bailed; and thirdly, the lien applies only to such goods over which the bailee has bestowed his labour and expense, and not to other good."<sup>6</sup> Thus upholding the decisions of previously mentioned cases, that bailee can't exercise the right of lien if there has been no improvement done on the bailed goods by skill or labour.

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<sup>5</sup> AIR 1934 Oudh 380

<sup>6</sup> Pollock & Mulla, *The Indian Contract & Specific Relief Acts* (16<sup>th</sup> edition, Lexis Nexis 2019), 1538.

**A. Exceptions and limitations**

As substantiated by the above-mentioned case laws it is clear that, indeed section 170 of the Indian Contract Act grants the bailee a particular 'right of lien' to protect the rights of the service provider who has improved the standard of the goods by their skill or labour. But, bailee can't exercise a lien on goods on which he hasn't applied his skill or labour to improve the standard of the goods.

But this right also has some exceptions, the bailee can't exercise his right of lien on those goods bailed, on behalf of those goods for which the amount is due. For illustration: - A gave his Mercedes car and Audi car for repair purposes to B, but A was only able to pay for the Audi car, subsequently, B claimed a lien on the Mercedes car and the Audi car. B, in this case, can exercise a lien, but only on the car for which payment is due, that is Mercedes. B can't exercise his 'right of lien' on Audi because the remuneration has been given for the reparations of the same. This type of lien can only be exercised by bankers, factors, wharfingers, attorneys, and policy brokers, known as a general lien, which is described under section 171 of the Indian Contract Act, 1872 as a type of lien in which the above-mentioned professionals can retain the goods as a security for a general balance of the account on any goods bailed to them. For illustration: - C gave two securities to the banker and took the loan only against one of them, the banker can retain the other security also until the dues are paid.

**B. Crannies in the law**

In *Hutton v. Car Maintenance Co.*<sup>7</sup>, with reference to the aforementioned case laws it is an unchangeable fact that Bailee can't practice his right of lien on the goods on which bailee has not applied his skill or labour that would eventually have improvised the condition of the goods bailed.

Section 170 of the Indian Contract Act, of 1872 grants the right of lien to the bailee so that the services he/she has rendered by applying skill or labour don't get exploited by the bailor and get the entitled remuneration. As discussed, this right comes with one condition, that is, the lien can only be exercised when there is an improvement in the condition of goods bailed by the bailee. Just by taking the example of *Hutton v. Car Maintenance Co.*<sup>8</sup>, in which the bailee had to maintain the bailor's car in its then-present condition for three years, but the bailee

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<sup>7</sup> (1915) 1 Ch 21

<sup>8</sup> Id

wasn't able to exercise the right of lien in response to the non-payment by the bailor because he didn't improve the condition of the car that was bailed. Is this correct/justified?

Section 158 of the Indian Contract Act, of 1872 clearly states that goods that are to be kept or to be carried, or to have work done upon them the bailor shall repay the necessary expenses the bailee incurred during the purpose of bailment. In a case where fertilizers have to be kept at a different place for storage purposes due to the bigger than-promised consignment being sent, which resulted in monetary expenditure by the bailee, the court held that the bailee can't exercise the right to lien.<sup>9</sup> This decision contradicts the rule laid down by section 158 of the Indian Contract Act, of 1872 and the same could be said for all the cases that are subjected to similar decisions held by the honorable courts that are mentioned in contrast with the *Hutton v. Car Maintenance Co.*<sup>10</sup> case in this paper.

Thus, section 170 of The Indian Contract Act of 1872 violates the right of the bailee to seek necessary expenses he/she incurred from the bailor as the bailee cannot exercise lien on the goods on the basis that he/she merely maintained the condition or stored the goods that were bailed. It is crystalline that in the maintenance or storing of the goods, there is, not much but, at least a little of the skill or labour will be rendered in order to maintain the condition of the goods that were bailed.

Therefore, it can be affirmed that section 170 of the Indian Contract Act of 1872, to an extent exploits the bailees as it grants the right of lien, only when there is labour or skill applied by the bailee to improve the standard of the goods bailed. Whereas it common to spend skill or labour in order to maintain or store the goods too. The bailors can take advantage of such conditions to escape from their liability to pay the bailees their due credit for the service they rendered.

## V. CONCLUSION

The right of lien under Section 170 of the Indian Contract Act, 1872, offers bailee protection against non-payment for services rendered. However, this right is limited to cases where the bailee has applied skill or labor to improve the condition of the goods bailed. This limitation, as evidenced in numerous case laws, poses significant challenges for bailees who provide services like maintenance or storage, which do not necessarily involve improving the goods'

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<sup>9</sup> Supra note 4

<sup>10</sup> Supra note 7

condition. The current legal framework, while aiming to safeguard bailee rights, inadvertently restricts them by not recognizing the effort and expenses involved in maintaining or storing goods. This gap in the law can potentially be exploited by bailors to avoid their financial obligations, thereby undermining the bailee's right to fair remuneration. To address this, there is a pressing need to revisit and potentially amend Section 170 to include services that maintain or preserve the condition of the bailed goods, thereby ensuring a more comprehensive protection for bailees' rights and preventing any misuse of the legal provisions by bailors.

