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 WILLIAM
 RENNIE,
In the goods
of.
 FLETCHER J.

receipts and discharges in the name of or on behalf of the donor of the power. He would give receipts as the constituted legal personal representative in British India. It seems to me that the words in this power are not sufficient to make a grant of Letters of Administration, and I must therefore refuse the application.

Application refused.

Attorneys for the petitioner: *Orr, Dignam & Co.*

J. C.

INSOLVENCY JURISDICTION.

Before Mr. Justice Fletcher.

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In re JEWANDAS JHAWAR*

May 30. *Insolvency—Adjudication, effect of order of—Property situate at Delhi attached by order of District Court of Delhi—Title of Official Assignee—Presidency Towns Insolvency Act (III of 1909), ss. 17, 126—Auxiliary aid—Provincial Insolvency Act (III of 1907), s. 50.*

Under section 17 of the Presidency Towns Insolvency Act, on the making of an order of adjudication by this Court, the property of the insolvent situate in every part of British India vests in the Official Assignee of Bengal.

Official Assignee, Bombay v. Registrar, Small Cause Court, Amritsar (1) followed.

Where prior to the order of adjudication by this Court, certain properties at Delhi belonging to the insolvent, were attached under decrees of the District Court of Delhi, and the subsequent application of the Official Assignee of Bengal for realisation of the insolvent's assets so attached was refused by the District Judge, and the properties were thereafter sold in execution, and the sale proceeds brought into the District Court:

An order was made under section 126 of the Presidency Towns Insolvency Act, requesting the District Judge of Delhi to act in aid under section 50 of the Provincial Insolvency Act.

*Insolvency Jurisdiction No. 13 of 1912.

(1) (1910) I. L. R. 37 Calc. 418 ; L. R. 37 I. A. 86.

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Jewandas Jhawar was a merchant carrying on business in piece-goods in Calcutta and Delhi under the name of Assaram Jhawar. Certain suits were instituted against him in the Court of the District Judge of Delhi in respect of his Delhi business, amongst others the suit of *Nidharmull Naidarmul v. Assaram Jhawar*. Decrees were made in these suits, and in execution of the decrees, certain properties belonging to Jewandas Jhawar at Delhi, as well as his books of account of his Delhi business, were attached.

Subsequent to the attachment, on the 19th January 1912, Jewandas Jhawar was adjudicated an insolvent by order of the Insolvent Court in Calcutta, on the petition of certain Calcutta creditors, and on the 12th February the Official Assignee of Bengal applied to the District Judge of Delhi in the suit of *Nidharmull Naidarmull v. Assaram Jhawar* for an order that the attachment directed in that suit be withdrawn, and that the properties which had been so attached should be made over to himself.

On the 15th April 1912, this application was rejected, on the grounds that section 17 of the Presidency Towns Insolvency Act of 1909 did not apply to mofussil Courts, and that inasmuch as the properties had been attached previous to the order of adjudication, they could not vest in the Official Assignee.

On the 17th April, all the properties at Delhi which had been attached in the several suits were sold by order of the District Judge, and the sale-proceeds as well as the books of account were brought into Court.

Thereupon, the Official Assignee of Bengal applied to the Insolvent Court in Calcutta under section 126 of the Presidency Towns Insolvency Act of 1909 "to request the District Judge's Court of Delhi to act under section 50 of the Provincial Insolvency Act of

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1907, and to make over the said sale-proceeds as well as the said books of account of the insolvent's Delhi business to this Court, such assets to be held and applied by this court in such manner as it may think fit."

Mr. S. C. Mookerjee, for the petitioner. On the order of adjudication being made by this Court, all the property of the insolvent, wherever situate, including his assets at Delhi, vested in the Official Assignee of Bengal under section 17 of the Presidency Towns Insolvency Act. The District Judge of Delhi was in error in refusing the petitioner's application and in continuing with the proceedings in execution. The assets now in the custody of the Delhi Court should be made over to, and be held by, the Official Assignee for the benefit of the general body of the creditors of the insolvent. This Court has ample jurisdiction under section 126 of the Presidency Towns Insolvency Act of 1909 to make the order prayed for.

FLETCHER J. This is an application under section 126 of the Presidency Towns Insolvency Act of 1909 asking for an order that under section 126 and section 50 of the Provincial Insolvency Act of 1907 the District Court of Delhi should be asked to act as provided by those sections and to make over the sale proceeds of certain properties attached at Delhi to the Official Assignee. It appears that the Additional District Judge is of opinion that section 17 of the Presidency Towns Insolvency Act does not apply to the *mofussil*. In my opinion the Additional District Judge is clearly in error in that opinion. The Presidency Towns Insolvency Act is an Act of the Legislative Council of the Governor-General, and purports to vest the property of the insolvent wherever situate in the

Official Assignee. Clearly, therefore, section 17 vests the property of the insolvent in any part of British India in the Official Assignee. The wording is substantially the same as that of the Imperial Statute which was repealed by the present Act. The matter is covered by authority; for the Privy Council in the case of *Official Assignee, Bombay v. Registrar, Small Cause Court, Amritsar* (1) held that the effect of that Act was to vest the property in the Official Assignee notwithstanding the local legislation of the Punjab Council. It is clear that the assets in the Delhi Court belong to the Official Assignee. Why the Additional District Judge refused to follow the clear words of section 17, I do not understand. Perhaps if he is asked to act in aid under section 50 of the Provincial Insolvency Act and section 126 of the Presidency Towns Insolvency Act, he will see his way to make over the assets to the Official Assignee, who alone can grant a discharge therefor. The application is allowed, and an order to act in aid is made under section 126 of the Presidency Towns Insolvency Act, and section 50 of the Provincial Insolvency Act.

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Application allowed.

Attorney for the petitioner: *S. C. Mukerjee.*

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