

CUNNIAH
& Co.,
In re.

for one day between 6 a.m. and 6 p.m. The licence was given to the petitioner. The mere fact that he asked his servant to drive the bus would not in any way exonerate him from the conditions of the licence. It is not necessary that he should actually go in the bus himself in order to make him liable under section 76. When the licence obtained is for a particular purpose and the currency of the licence is only for a short time, if the person who obtains licence does not himself drive the bus but makes his servant go through prohibited streets, he is as much liable as the man who drives the bus because the servant is only the hand by which the act is done. In this view of section 76 I think the conviction of the petitioner is right. I dismiss the petition.

B.C.3

APPELLATE CIVIL.

*Before Mr. Justice Ramesam and Mr. Justice
Devadoss.*

1926,
January 5.

ADUSUMELLI GOPALAKRISHNAYYA (PETITIONER),
APPELLANT;

v.

PEYYATH GOPALAN AND OTHERS (COUNTER-PETITIONERS),
RESPONDENTS.*

Hindu Law—Insolvency of the father—Attachment of son's share by a creditor—Right of Official Receiver to sell the son's share after the attachment, at an end—Right of attaching creditor to proceed in execution by sale of son's share.

Although, on the insolvency of the father of a joint Hindu family, the power of the father to sell the son's share in the

* Appeal against Order No. 14 of 1924.

family property passes to the official receiver in insolvency, yet if the son's share was attached by a creditor, the Official Receiver has no power to sell the share after attachment, but the attaching creditor is entitled to proceed with the execution by selling the son's share.

GOPALA-
KRISHNAYYA
v.
GOPALAN.

APPEAL against the order of the Court of the Subordinate Judge of Masulipatam in E.P. No. 431 of 1921 in O.S. No. 10 of 1919.

The material facts appear from the judgment.

P. Satyanarayana Rao for appellant.

T. Ramachandra Rao for respondent.

JUDGMENT.

Only the power of the father to sell the shares of the sons passes to the Official Receiver, *Sat Narain v. Behari Lal*(1). But the power is subject to the same qualification as it is in the father's hands, *Allahabad Bank, Ltd., Bureilly v. Bhagwan Das Johari*(2) and *Seetharama Chettiar v. Official Receiver, Tanjore*(3). In this case the son's shares have been attached and after such attachment, the Official Receiver cannot exercise the power of sale. It is true that in respect of such properties which were sold by the Official Receiver prior to the attachment of the son's share by the decree-holder, the above observations do not apply. Except as to such properties, the appellant is entitled to proceed with the execution by selling the son's shares. He will now be allowed to execute the decree by selling the son's shares.

The appeal is allowed with costs in this Court. The costs in the Court below will be provided for by the Lower Court when ordering execution.

K.R.

(1) (1924) I.L.R., 6 Lah., 1.

(2) (1926) I.L.R., 48 All., 343.

(3) (1926) I.L.R., 49 Mad., 849.