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niture, carriages, horses, &c., may be in my possession at the time of my decease, together with all monies due or which may afterwards become due, feeling confident that she will act justly to our children in dividing the same when no longer required by her."

"Technical language," says Mr. Jarman in his *Treatise on Wills*, "is not necessary to create a trust. It is enough that the intention is apparent. Thus it has been long settled that words of recommendation, request, entreaty, wish, or expectation, addressed to a devisee or legatee, will make him a trustee for the person or persons in whose favour such expressions are used, provided the testator has pointed out, with sufficient clearness and certainty, both the subject matter and the object or objects of the intended trust (1)."

The doctrine thus stated is sanctioned by the authority of decisions to which we have been referred, and I accept it as sound. Applying it to Captain Raynor's will, I cannot doubt that his widow under its terms became a trustee of his estate for their children, and that her own interest in it was a limited one. She was at liberty indeed to use it for her own needs, but was bound to divide it among them when no longer required by her. She performed this duty by the will executed by her on the 5th September, 1868, and by that instrument she bequeathed to the plaintiff the twenty-four shares in the Delhi and London Bank which are the subject-matter of the present suit. It would seem to follow that the shares in question belong to the plaintiff and cannot be sold in execution of decree as the property of the late Mrs. Raynor.

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*Before Mr. Justice Pearson and Mr. Justice Turner.*

NUR AHMAD (DEFENDANT) v. ALTAË ALI (PLAINTIFF).\*

*Attachment of Land—Private Alienation after Attachment—Act VIII of 1859  
(Civil Procedure Code), ss. 239, 240.*

Certain land was attached in the execution of a decree in the manner required by s. 235 of Act VIII of 1859, but a copy of the order of attachment

First Appeal, No. 22 of 1878, from a decree of Maulvi Maqsud Ali Khan, Subordinate Judge of Bareilly, dated the 30th January, 1878.

(1) 3rd ed., vol. ii, p. 356.

was not, as required by s. 239 of that Act, fixed up in a conspicuous part or in any part at all of the Court-house of the Court executing the decree, nor was it sent to or fixed up in the office of the Collector of the district in which the land was situated. Subsequently to the attachment of the land the judgment-debtor privately alienated it by sale. *Held* that, as the attachment had not been made known as prescribed by law, the provisions of s. 240 of Act VIII of 1859 did not apply, and the sale was not null and void. *Indra Chandra v. The Agra and Masterman's Bank* (1) followed.

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THIS was a suit in which the plaintiff originally claimed that an order of the District Judge of Bareilly, dated the 8th September, 1877, directing the sale of certain land in the execution of a decree against one Husaini Begam, might be set aside, and such sale might be prohibited, on the ground that the plaintiff was the proprietor of such land as purchaser of it from Husaini Begam. The plaintiff subsequently to the institution of the suit, the auction-sale having taken place, claimed that such sale might be set aside, and the auction-purchaser was in consequence made a party to the suit as a defendant. The original defendant, in execution of whose decree the property in suit had been sold, set up as a defence, *inter alia*, that the plaintiff had purchased the land in suit from Husaini Begam while it was under attachment in the execution of his decree, and the sale was consequently null and void, under the provisions of s. 240 of Act VIII of 1859. The District Judge of Bareilly, the Court executing the decree, had, it appeared, ordered the land to be attached on the 2nd February, 1875. The written order required by s. 235 of Act VIII of 1859 issued, but it was not made known as directed by s. 239 of that Act. It was not fixed up at all in the Court-house of the District Judge of Bareilly, neither was it fixed up in the office of the Collector of the district. On the 30th October, 1876, the plaintiff purchased the land from Husaini Begam, the judgment-debtor. Subsequently the defendant applied for the sale of the land in execution of his decree, and obtained an order directing that the sale should take place on the 20th August, 1877. The plaintiff objected to the sale, urging that the land had not been attached. The District Judge for certain reasons postponed the sale to the 20th September, 1877, and on the 8th of that month dis-

(1) 10 W. R. 264; S. C., 1 B.L. R. S. N. xx. See also *Dwarkanath Biswas v. Ram Chander Roy*, 13 W. R. 136, where the written order required by s. 235 did

not issue and it was held that, the property not having been duly attached, the provisions of s. 240 did not apply to an alienation of it.

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allowed the plaintiff's objections to the sale. On the 19th September, 1877, the plaintiff instituted the present suit in the Court of the Subordinate Judge of Bareilly, and on the day following the land was sold. The sale was confirmed on the 17th November, 1877.

The Court of first instance gave the plaintiff a decree, holding that the sale was valid, the provisions of s. 240 of Act VIII of 1859 not applying, as the prohibitory order required by s. 235 of that Act had not been duly made known as required by s. 239.

The auction-purchaser appealed to the High Court, contending that as Husaini Begam and the plaintiff were well aware of such attachment proceedings as had been taken, the sale came within the real meaning and intention of s. 240 of Act VIII of 1859, and was null and void.

The *Junior Government Pleader* (Babu Dwarka Nath Banarji), Munshi Hanuman Parshad, and Pandit Bishambhar Nath, for the appellant,

Mr. Conlan and Shah Asad Ali, for the respondent.

The judgment of the Court (PEARSON, J. and TURNER, J.), so far as it is material for the purposes of this report, was as follows :

JUDGMENT.—Under the provisions of s. 240 of Act VIII of 1859, a private alienation of property made after its attachment had been duly intimated and made known in the manner prescribed by the Act is declared null and void. It is not shown that the attachment in this case was made known as by the Act directed. It is not proved that a copy of the order was posted in a conspicuous part, or in any part, of the Court-house, nor that it was sent to or posted in the office of the Collector. We are therefore unable to find that the alienation was made after the attachment had been made known as by the Act prescribed, and consequently the provisions of s. 240 do not apply,—*Indra Chandra v. The Agra and Masterman's Bank* (1).