

the institution of a suit might for more than one reason be a very proper proceeding on the part of the restrained creditor, as for example in this case, to avoid the bar by time, though it might also be prudent to let the Court which had issued the order know what he was about. Their Lordships think that the High Court have taken the correct view of this matter. In the case of *Shib Singh v. Sita Ram* (1), the defendant pleaded in bar to a suit that the plaintiff was prohibited by an order of this kind, but the plea was overruled. In the present case Mr. Justice Straight says: "What I understand section 268 to mean is, that the debt is not to be realized by the judgment-debtor, who is a creditor of some third party, and not that he is to refrain from, in the ordinary course of law, putting his claim into Court, and asserting his right to such money as may be due to him." Section 268 relates to attachment after decree, but the same rule must apply to all attachments couched in similar terms.

The result is that their Lordships agree with the conclusions of the High Court, and will humbly advise Her Majesty that this appeal should be dismissed with costs.

Appeal dismissed.

Solicitors for the appellant:—*Messrs. Ranken, Ford, Ford and Chester.*

Solicitor for the respondent:—*The Solicitor, India Office.*

FULL BENCH.

Before Sir John Edge, Kt., Chief Justice, Mr. Justice Mahmood and Mr. Justice Knox.

REFERENCE UNDER ACT NO. 1 OF 1879 (INDIAN STAMP ACT), s. 49.

Act No. 1 of 1879 (Indian Stamp Act), s. 3, sub-s. (4), cl. (b)—Stamp—Bond—Promissory note.

Held that a document by which the executant promised to pay to the person named therein a certain sum of money on a certain date with interest was not "attested by a witness" within the meaning of cl. (b) of sub-s. 4 of s. 3 of Act No. 1 of 1879, merely by reason of its bearing on the face of it a statement by the scribe of the document that the document was correct and was written by his pen.

(1) I. L. R., 13 All. 76.

1894

BETI MAHA-
RANI
o.
THE COLLEC-
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ETAWAR.

1892

January 25.

1892

REFERENCE
UNDER ACT
No. 1 OF 1879.

THIS was a reference under s. 49 of Act No. I of 1879, made through the District Judge of Rae Bareilly by the Munsif of Partágarh of the question whether a certain document should or should not be stamped as a bond within the meaning of cl. (b), sub-s. (4) of s. 3 of Act No. 1 of 1879.

The terms of the document were as follows:—"To Swasti Sri Sahu Ram Adhin Nandu, resident of village Bachhla, taluqa Patti Saifabad, pargana Belkher, tahsil Patti, district Partágarh (who tenders his) greeting (Ram Ram) to him. May God bless you. Further, I execute a promissory note (*rakha*) for Rs. 31-5-6 on account of the balance of my account which I promise to pay without any plea and objection on Aghan Badi 15th, 1296F., adding interest at Re. 1 per cent. and will make no objection.

Written on Miti Magh Sudi 2nd, 1295F., with the pen of Jamna Lal (of) Ram Ganj.

Signed (*Alabd.*).

Signature of Ramman, Ahir.

The promissory note (*rakha*) written is correct.

Rs. 31-5-6 taken is correct; with the pen of Jamna Lal (of) Ram Ganj.

The mark made by Ramman is apparent."

On this reference the Court (EDGE, C. J., MAHMOOD and KNOX, JJ.) made the following order:—

The case reported in I. L. R., 10 Mad. 158, does not apply to the facts of this case. The document in this case is not in our opinion "attested by a witness" within the meaning of cl. (b) of sub-s. (4) of s. 3 of Act No. I of 1879. What is said to be an attestation is merely a statement in writing by the scribe of the document that the document was correct and was written by his pen. We therefore answer the question referred to us by saying that the document in question cannot be treated as a bond as defined in cl. (b) of sub-s. (4) of s. 3 of Act No. I of 1879.